

AMERICAN DIPLOMATIC AND CONSULAR PRACTICE

BY
GRAHAM H. STUART
PROFESSOR OF POLITICAL SCIENCE
STANFORD UNIVERSITY



D. APPLETON-CENTURY COMPANY
INCORPORATED

NEW YORK

LONDON

COPYRIGHT, 1936, BY
D APPLETON-CENTURY COMPANY, INC

All rights reserved This book, or parts
thereof, must not be reproduced in any
form without permission of the publisher

To the
Department of State
and the
Foreign Service of the United States
Agencies Extraordinary and Plenipotentiary
for the
Promotion of Peace and Prosperity among States

FOREWORD

The aim of this study is to present an adequate survey of the organization and workings of the machinery employed in conducting the foreign relations of the United States. Former Secretary of State Hughes aptly designated skillful diplomacy as preventative medicine. The best of medicine is of little avail, however, if its use is limited and its application suspected. Unfortunately, the man in the street in our democracy not only looks askance at diplomatic medicine, but he is still more suspicious of the physicians who prescribe it. This attitude restricts the effective work of the State Department at home and that of the diplomatic and consular service abroad.

Perhaps the most important reason for this feeling is the aura of secrecy which is thrown about the practice of diplomacy. The citizen is not permitted to appreciate sufficiently the fact that diplomacy is merely the conduct of a nation's business abroad. Nor does he have it brought home to him that diplomacy has an additional function of even greater importance in that it must maintain the friendly atmosphere between states without which commercial, intellectual, and social relations are impossible. A little more publicity would do much to dispel the atmosphere of suspicion with which the conduct of diplomacy is unfairly beclouded.

The present study is an effort to present the machinery of diplomacy as an effective scientific agency of government. It attempts to show the practical utility and fundamental necessity of the work of the Department of State and the Foreign Service by giving a first-hand account of what they are doing and how they are doing it. The personnel, past and present, has furnished the material. Although the author concedes that he has approached his task with a sympathetic attitude, he has constantly endeavored to remain objective and critical.

This volume could not have been written without the wholehearted support and assistance of the officers both in the Department of State and in the diplomatic and consular services abroad.

Their sympathetic and cordial cooperation has been continuous and unfailing. If a small part of the valuable information furnished has been fairly presented, the study will not fail in its purpose. To express his gratitude individually would require the author to name personally a majority of the personnel in the Department of State and a goodly number of the staffs of embassies, legations, and consulates from Copenhagen to Istanbul. The author cannot refrain, however, from expressing his grateful appreciation to Assistant Secretary of State Wilbur Carr for the instructions sent to the diplomatic and consular posts in his behalf, and for the very helpful suggestions and corrections which he has made in the manuscript. The writer would also be remiss if he failed to thank once more Mr. Clinton MacEachran of the Department of State for his unfailing courtesy over a considerable period of time in aiding the author in every possible way. It is hardly necessary to add that the author assumes sole responsibility for the material as presented.

GRAHAM H. STUART.

CONTENTS

CHAPTER		PAGE
I	THE HISTORICAL DEVELOPMENT OF DIPLOMATIC PRACTICE . . .	3
II	THE HISTORICAL DEVELOPMENT OF CONSULAR PRACTICE . . .	23
III	THE CONTROL OF FOREIGN RELATIONS IN THE UNITED STATES . . .	41
IV	THE HISTORICAL DEVELOPMENT OF THE DEPARTMENT OF STATE . . .	58
V	THE ORGANIZATION AND WORK OF THE DEPARTMENT OF STATE I Offices and Divisions Largely Concerned with the Determination of Policy . . .	73
	A THE OFFICE OF THE SECRETARY OF STATE . . .	76
	B THE OFFICE OF THE UNDERSECRETARY OF STATE . . .	82
	C THE ASSISTANT SECRETARIES OF STATE . . .	84
	D GEOGRAPHICAL DIVISIONS . . .	89
	1 <i>Division of Far Eastern Affairs</i> . . .	89
	2 <i>Division of Western European Affairs</i> . . .	91
	3 <i>Division of Near Eastern Affairs</i> . . .	95
	4 <i>Division of Latin American Affairs</i> . . .	98
	5 <i>Division of Mexican Affairs</i> . . .	100
	6 <i>Division of Eastern European Affairs</i> . . .	102
	E THE OFFICE OF THE LEGAL ADVISER . . .	104
	F THE OFFICE OF THE ECONOMIC ADVISER . . .	107
	G THE COMMERCIAL OFFICE . . .	110
	H THE DIVISION OF TRADE AGREEMENTS . . .	112
VI	THE ORGANIZATION AND WORK OF THE DEPARTMENT OF STATE II Office and Divisions Largely Concerned with Administration . . .	115

A.	THE OFFICE OF THE CHIEF CLERK AND ADMINISTRATIVE ASSISTANT	115
B.	THE DIVISION OF FOREIGN SERVICE ADMINISTRATION	119
C.	THE DIVISION OF COMMUNICATIONS AND RECORDS	122
D.	THE OFFICE OF COORDINATION AND REVIEW	125
E.	THE PASSPORT DIVISION	127
F.	THE VISA DIVISION	130
G.	THE DIVISION OF RESEARCH AND PUBLICATION	132
H.	THE OFFICE OF THE HISTORICAL ADVISER	137
I.	THE DIVISION OF CURRENT INFORMATION	139
J.	THE TRANSLATING BUREAU	141
K.	THE DIVISION OF PROTOCOL AND CONFERENCES	143
L.	THE TREATY DIVISION	147
M.	THE DIVISION OF FOREIGN SERVICE PERSONNEL	150
N.	THE FOREIGN SERVICE OFFICERS' TRAINING SCHOOL	153
O.	THE FOREIGN SERVICE BUILDINGS OFFICE	155
P.	THE BUREAU OF ACCOUNTS	158
Q.	THE OFFICE OF ARMS AND MUNITIONS CONTROL	160
VII	THE DEVELOPMENT OF THE AMERICAN DIPLOMATIC AND CONSULAR SERVICE	162
VIII	POST-WAR DEVELOPMENT OF THE AMERICAN DIPLOMATIC AND CONSULAR SERVICE	181
IX	APPOINTMENT OF DIPLOMATIC OFFICERS	198
X	RECEPTION OF DIPLOMATIC OFFICERS	218
XI	DIPLOMATIC DUTIES I Political Functions Relating to the Home Government	236
XII	DIPLOMATIC DUTIES II Political Functions Relating to Foreign States	258
XIII	DIPLOMATIC DUTIES III Social Functions	272
XIV	DIPLOMATIC RIGHTS AND PRIVILEGES	285

CONTENTS

CHAPTER	PAGE
XV DIPLOMATIC IMMUNITIES	298
XVI TERMINATION OF DIPLOMATIC MISSIONS	321
XVII CONSULS — CLASSIFICATION AND APPOINTMENT	339
XVIII CONSULAR FUNCTIONS IN THE INTEREST OF COMMERCE AND NAVIGATION	350
XIX CONSULAR SERVICES RENDERED TO NATIONALS	372
XX CITIZENSHIP, PASSPORT, AND VISA SERVICES	400
XXI CONSULAR PRIVILEGES AND IMMUNITIES	429
XXII A MODEL FOREIGN SERVICE ESTABLISHMENT — THE AMERICAN GOVERNMENT BUILDING IN PARIS	447
XXIII OBSERVATIONS AND SUGGESTIONS	463
APPENDIX A PRESIDENTS OF THE UNITED STATES AND SECRETARIES OF STATE, 1789-1936	476
APPENDIX B AMERICAN DIPLOMATIC REPRESENTATIVES TO COUNTRIES TO WHICH AMBASSADORS ARE AT PRESENT ACCREDITED	485
APPENDIX C THE MOSES-LINTHICUM ACT OF FEBRUARY 23, 1931	502
APPENDIX D FULL POWER TO NEGOTIATE AND SIGN TREATIES	520
APPENDIX E FULL POWER FOR DELEGATES TO CONFERENCE	521
APPENDIX F LETTER OF CREDENCE	522
APPENDIX G CONSULAR COMMISSION	523
A SELECTED LIST OF BOOKS CONTAINING MATERIAL PERTAINING TO DIPLOMATIC AND CONSULAR PRACTICE	524
INDEX	535

AMERICAN DIPLOMATIC
AND
CONSULAR PRACTICE

CHAPTER I

THE HISTORICAL DEVELOPMENT OF DIPLOMATIC PRACTICE

The Origins of Diplomacy—It has been well said that “La diplomatie est aussi ancienne que les peuples eux-mêmes,” but diplomatic agents may trace their ancestry still further back, even to divine lineage, the angels or messengers of God. It is Josephus who tells the story that King Herod, horrified at the death of his envoy at the hands of the Arabs, called it an execrable deed in the eyes of nations and particularly for the Jews, who had received their sacred laws from God through his angels who are his heralds and his ambassadors.¹

But to begin with secular history, we find the primitive countries of China exchanging diplomatic representatives, with questions of precedence and ceremonial most carefully regulated. The Laws of Manu for ancient India provide for the appointment by the king of worthy men as ambassadors to carry on political relations with neighboring countries “Let him also appoint an ambassador who is versed in all sciences, who understands hints, expressions of the face and gestures, who is honest, skillful and of noble family.”² Egypt in the 14th century B. C. engaged in diplomatic correspondence and treaty making. A treaty signed by Rameses II in 1280 B. C. provided for peace between Egypt and the Hittites, a defensive and offensive alliance, and even for the extradition of political refugees.³

Diplomatic Relations among the Greeks—It was among the Greeks, however, that diplomatic relations became constant and took on a certain stability of form. Although no permanent em-

¹ Flavius Josephus, *Antiquities of the Jews*, William Whiston, tr. (New York, 1888), 412.

² F. Max Müller, “Laws of Manu”, *Sacred Books of the East*, G. Buhler, tr. (Oxford, 1886), XXV, Ch. VII, Sects 63-68

³ *Journal of Egyptian Archaeology*, VI (1920), 179.

bassies were maintained, all interstate relations were carried on by means of ambassadors and missions. The fact that there were hundreds of independent states in Greece made permanent embassies a practical impossibility. Nor was it necessary to build up a class of professional diplomats. Most of the distinguished citizens were familiar with the political situation of the times and to that extent well equipped to serve on diplomatic missions.

Important governmental officials were often appointed, sometimes military and naval officers. A Rhodian admiral was sent to Rome to propitiate the Senate. On occasion actors were chosen, sometimes even musicians and poets. The actor Aeschynus served as the diplomatic representative of Athens in Macedonia. The musician Menecles who was the ambassador of the city of Téos pleased the Grossiens exceedingly because in addition to performing his functions as ambassador he gave public recitations on several occasions, accompanying himself with the citharus. The term *πρέσβευς* is often found in Greek literature referring to ambassadors. The wily Ulysses was peculiarly fitted for such a rôle and served most acceptably. Aristophanes in his comedy, the *Acharnians*, gives an amusing presentation of the Athenians receiving reports from their embassies just back from Persia and Thrace.⁴

Certain definite principles of diplomatic practice were widely recognized even at this early period. The inviolability of diplomatic envoys was a fundamental principle of international good conduct. The Athenians and Spartans recognized that they had flagrantly violated this law in the killing of the envoys of the Persian king, Darius. When two Spartan nobles offered their lives in atonement, Xerxes showed his respect for this common law of mankind by refusing the retribution.⁵ An ambassador was not subject to local jurisdiction even when he committed an offense in the territory of the foreign state. Thebes declared war upon Thes-saly upon the ground that its ambassadors had been arrested and imprisoned, thereby violating the law of nations, even though there

⁴ B. B. Rogers, *The Acharnians of Aristophanes* (London, 1910), 13-25. Aristophanes slyly intimates that the envoys were so pleased with their work and their salaries that they took eleven years to make a journey for which eleven months would have been ample.

⁵ Coleman Phillipson, *The International Law and Customs of Ancient Greece and Rome* (London, 1911), I, 239.

was evidence that the Theban envoys were rightly suspected of plotting against the Thessalian government.⁶

Among the Greeks the right to send ambassadors was inherent in the sovereign powers of the state, and the right to send implied the obligation to receive. The popular Assembly both received and sent diplomatic envoys, and oftentimes the subject of the mission was presented publicly by the foreign ambassadors to the representatives of the people. The Greek envoys received their instructions orally or in writing and carried credentials called *σύμβολα*. Diplomatic representatives were usually accompanied by their suites. Ambassadors were strictly forbidden to accept gifts while on their mission, and Timagoras, an ambassador from Athens to Persia, was condemned to death for accepting presents.⁷

The treatment accorded diplomatic envoys, however, was sufficiently generous. All the members of the diplomatic mission could reclaim both their traveling expenses and their living expenses. Upon the ambassador's return if he had carried out his mission in a satisfactory manner he was often honored by an eulogy publicly proclaimed in the religious festivals and in the theater.

The right of asylum was a well-established principle of international law among the ancients, although statues, tombs and temples were used instead of embassies. Sometimes an entire city was regarded as a sanctuary, as for example the town of Téos. According to Laurent, the right of asylum is not a sacerdotal privilege, it is rather the voice of humanity, speaking through the mouth of the Delphic priestess.⁸ According to Barbeyrac⁹ Aristotle wrote a work concerning ambassadors but unhappily this study has been lost.

Diplomatic Relations among the Romans—Although Rome particularly in her later period regarded herself somewhat superior to her neighbors and preferred to receive rather than to send ambassadors,¹⁰ nevertheless she accepted for the most part the diplo-

⁶ Phillipson, *op cit.*, I, 330.

⁷ *Ibid.*, I, 344.

⁸ F. Laurent, *Histoire du droit des gens et des relations internationales* (Gand, 1850-1870), II, 135.

⁹ J. Barbeyrac, *Histoire des anciens traités* (Amsterdam, 1839).

¹⁰ Augustus had engraved on the bronze pillars before his mausoleum his boast that to him were sent embassies from India, the Bastarnians, the Scythians, the distant Sarmatians and Albanians, the Iberians and the Medes.

matic practice of the Greeks. Among the Romans an ambassador was usually called a *legatus*, less often an orator and sometimes a *fecial*. The latter term was used for the most part in negotiations looking towards war or peace. The Roman Senate regularly sent at least three ambassadors, very often the number reached ten.

Cicero in his exact method of statement has well expressed the Roman attitude towards diplomatic inviolability: "The inviolability of ambassadors is protected both by divine and human law; they are sacred and respected so as to be inviolable not only when in an allied country but also whenever they happen to be in forces of the enemy" ¹¹

The privilege of inviolability extended to the attachés of the ambassador, it included his correspondence and those things essential to the necessary performance of his duties. The principle covered enemy envoys and ambassadors in enemy territory after the outbreak of war. The Romans further maintained that the envoy was inviolable passing through third states either going to or returning from his mission. Any assault upon an ambassador or herald was a violation of *jus gentium*.

The immunity of ambassadors from territorial jurisdiction in both ceremonial and civil matters was fully recognized in Rome. A suit could not be brought against an ambassador because of a contract that he had entered into, in the city or elsewhere, before the surrender of his letters of credence; the diplomatic envoy had the right to be exempt from the jurisdiction of all courts except those of his own country; he possessed the *jus revocandi domum*.¹²

The Senate at Rome considered ambassadors as its guests and received them with a ceremonial of great pomp. They were seated with the senators in the public festivals. Their lodgings were provided for them. The city even offered them at times a money donation. It must be noted, however, that ambassadors had to request permission to be presented before the Senate, and if the Senate refused they no longer possessed diplomatic status. The Illyrian legates in 174 B. C., failing to report promptly, were subsequently denied an audience by the Senate.¹³ A distinction also was made between legations coming to establish friendly relations and those

¹¹ In Verres III

¹² R. Redslob, *Histoire des grands principes du droit des gens* (Paris, 1923), 83.

¹³ Phillipson, *op. cit.*, I, 316

coming to break off relations. The latter were not likely to receive as many courtesies of the city.

During the last years of the Roman Empire the bishops became ambassadors. For example, it was the Bishop of Marseilles, Graecus, who as ambassador consented to the cession of Auvergne in order to stave off an overwhelming invasion.¹⁴ The Church was destined to increase its temporal power and play a leading rôle in the diplomacy of the time. One should note that the institution of diplomatic interpreters, the forerunner of our "dragomans" in Oriental countries, was a development of this period.¹⁵

Even a brief consideration of the development of the rights of envoys among the Greeks and Romans indicates that many of the fundamental principles as they exist today had already been well established more than 2,000 years ago in this early cradle of European culture. The fundamental difference was that the embassies at that time were temporary rather than permanent. Permanent legations did not exist because they did not fit the needs of the time. But a well established *jus naturale* covered diplomatic practice in antiquity, supplemented by the *jus gentium* and *jus fetiale* of the Romans. The foundations for the diplomatic law of today had been laid.

Diplomacy of the Middle Ages—It is at the end of the Middle Ages that we find for the first time "diplomacy practiced as an art and taught as a science". Nevertheless, the Papacy and the Catholic Church had made contributions during the Middle Ages which cannot be overlooked. The relations between the Papacy and the Byzantine Empire were so important that the popes maintained more or less permanent ambassadors at the imperial court at Constantinople. These representatives were called *apocrisarii* or *responsales*. One of the earliest of these *apocrisarii* was Julian, Bishop of Cos, accredited by Saint Leo the Great to Emperor Marchian, 453 A.D.¹⁶ The Pope also maintained a permanent *apocrisarius* at the court of the exarch at Ravenna while the archbishop of Ravenna had a special *responsalis* at the papal court.

¹⁴ P. Pradier-Fodéré, *Traité de droit international publique*, 8 vols (Paris, 1906), III, 33.

¹⁵ Cf. J. Snellman, *De Interpretibus Romanorum* (Leipzig, 1920).

¹⁶ Otto Krauske, *Die Entwicklung der ständigen Diplomatie* (Leipzig, 1885), 8.

During the later Middle Ages the Popes frequently sent ambassadors on special missions who were called *legati a latere* if cardinals, *legati missi* or *nuntii* if below cardinal rank. They also employed *nuntii apostolici* as resident ambassadors to the Holy Roman Emperor and to various European kings. Diplomatic missions from Venice to the Vatican had already been sent in the ninth century. By 1322 the Pope claimed the right to have resident ambassadors of the Papal See in every quarter of the world. From the reign of Charles V a perpetual nuntius was kept at the Imperial Court in Germany.¹⁷

The inviolability of the diplomatic envoy was as well recognized in the Middle Ages as in ancient times. Totila, king of Italy in the sixth century, declared that the Goths recognized as fully as the Romans the duty of showing respect to the position of the envoy.¹⁸ The Salic Law and the laws of the Goths and the Saxons imposed a *wergeld* or indemnity for the murder of an ambassador. "The Koran ordains that the envoy manifestly must be well received."¹⁹ When the envoys of Barbarossa were seized and imprisoned by the Emperor of Greece in 1187 at Constantinople, the Chronicler Geoffrey of Vinsauf condemned this act as a violation of the laws sacred among the ancients and even among the barbarians both by custom and by honor.²⁰

The procedure and etiquette employed in the diplomatic intercourse of the Byzantine emperors with other rulers during the Middle Ages exhibited a marked ecclesiastical influence. The curious manual dictated by the Emperor Constantine VII in the tenth century entitled *De Ceremoniis* is replete with interesting examples.

Liutprand, Bishop of Cremona, gives a very amusing account of a medieval diplomatic mission. Emperor Otto I sent him on a mission to Byzantium to propose a marriage between the Emperor's son and the daughter of the Byzantine Emperor, Romanus II. The Bishop was imprisoned and treated with every sort of indignity and when finally admitted to an audience the Emperor

¹⁷ R. F. Wright, *Medieval Internationalism* (London, 1930), 94-95.

¹⁸ T. Hodgkin, *Italy and Her Invaders, 476-535 A. D.* (Oxford, 1885), IV, 527.

¹⁹ R. Redslob, *op. cit.*, 145 (quoting Digest, *De Legationibus*, 50, 7 18), cf. David Jayne Hill, *Diplomacy in the International Development of Europe*, 3 vols. (New York, 1906-1914), I, 39.

²⁰ T. A. Walker, *A History of the Law of Nations* (Cambridge, 1899), 115.

made certain slurring remarks concerning Otto's soldiers: "The soldiers of thy master do not know how to ride, nor do they know how to fight on foot . . . their gluttony also impedes them, for their God is their belly, their courage but wind, their bravery drunkenness." Liutprand replied that his nation so despised the Romans that by that word they meant "whatever there is of contemptibility, of timidity, of avarice, of luxury, of lying, in a word of viciousness".²¹

Diplomacy as a profession originated at the close of the Middle Ages in the Italian cities which had built up an ever increasing commerce with the East as a result of the Crusades. The immediate result was to enhance the value of diplomacy and increase the prestige of diplomatic agents. In the thirteenth and fourteenth centuries Florence numbered among her diplomats such outstanding citizens as Dante, Petrarch, and Boccaccio. Later Guicciardini and Machiavelli were assigned important missions. In the thirteenth century an ambassador rarely resided at a foreign court for more than one or two months. In the fifteenth century Venice extended the period of an embassy to two years and in the sixteenth to three. The development of the practice of sending permanent missions was rendered the more difficult because of the distrust of permanent representatives. This is not so much to be wondered at when we remember that diplomacy at this time was almost synonymous with treachery and faithlessness. Representatives were received but with suspicion and every precaution was taken to render futile their activities as potential plotters against the safety of the state. Commynes, Hotman, Marselaer and other writers of the sixteenth century placed diplomatic envoys in the same class with spies. Marselaer advocated that when an envoy of an enemy state was received his weapons be taken from him and his clothes be shaken out.²²

Francesco Sforza, Duke of Milan, had the honor of establishing the earliest permanent embassy in Europe when towards the middle of the fifteenth century he sent Nicodemus as envoy to the Medici in Florence.²³ Thereafter the development of the service as a permanent institution was exceedingly rapid.

²¹ Quoted by David Jayne Hill, *op. cit.*, I, 185.

²² See Krauske, *op. cit.*, 12-25, for interesting examples.

²³ Hill, *op. cit.*, II, 154.

Nevertheless Venice was in reality "the school and touchstone of ambassadors". From the beginning of the thirteenth century the Republic began to promulgate a series of laws and decrees for the guidance of her ambassadors. A decree of 1236 forbade ambassadors at the court of Rome from accepting from any source whatever any favors or profits without the consent of the doge and the assembly. An ordinance of 1268 required ambassadors upon their return to surrender all the gifts that they had received.²⁴ A law of the same year prevented the ambassador from being accompanied by his wife lest she might divulge his affairs. He had to take along his own cook so as not to be poisoned. In 1268 it was decreed that envoys file a written report of their mission within a fortnight of their return. An envoy was not permitted to be absent a single day from his post.

The art of diplomacy developed by Venice and the other Italian cities came into vogue immediately among the monarchs of Western Europe. Louis XI of France, Ferdinand the Catholic of Spain, Henry VII of England established permanent missions at the courts of the neighboring kings. Francis I of France set up a permanent and completely organized diplomatic service.

The courts of Rome, France, Spain, Austria and England regularly received ambassadors while Milan, Mantou, the Swiss cantons, Florence and Naples were assigned resident ministers. The envoy to Constantinople had the rank of ambassador but was designated as *bailo* ²⁵

Inviolability of Ambassadors—A very considerable development in diplomatic law is to be noted in this period. The inviolability of the diplomatic representative was recognized in all circumstances. An ambassador conspiring against the safety of the state might be expelled from the country but he could not be put on trial. It is curious to note that in this matter theory was not as far advanced as practice. Conradus Brunus was of the opinion that ambassadors could claim the right of inviolability only so long as they behaved themselves properly and kept within the limits of their ambassadorial functions.²⁶ Gentilis while favoring

²⁴ Ernest Nys, *Les Origines du droit international* (Bruxelles, 1894), 298.

²⁵ Pradier-Fodéré, *op cit*, III, 34.

²⁶ Conradus Brunus, *De Legationibus* (Mainz, 1548), IV, 160.

the dismissal of an ambassador if found guilty of conspiracy conceded that if injury to the prince had been committed the ambassador must submit himself to the local jurisdiction.²⁷ Jean Hotman was even more emphatic and declared that "the Ambassador who in the guise of friendship wins the confidence of a prince who is an ally of his master in order to do him an evil turn is to be held inexcusably guilty and may not under any circumstances invoke the diplomatic immunity which might protect him against the penalties imposed upon all those who trouble the peace of a state."²⁸ It is only with the later treatises of Grotius, Zouche and Bynkershoek that the theory of diplomatic immunity from criminal jurisdiction is definitely established in theory. "Yet," according to Professor Adair, who has made a profound study of the subject, "throughout the sixteenth and seventeenth centuries no ambassador was ever put to death nor even subjected to any very long imprisonment for crimes committed unless he was a subject of the state to which he had been sent."²⁹ The recall of the French ambassador de Noailles, implicated in a plot against Queen Mary of England in 1556; the dismissal of the Spanish ambassador Mendoza, involved in a plot against Queen Elizabeth in 1583; the action of the Venetian Senate in 1618 in facilitating the flight of the Spanish ambassador de Cueva who had organized a conspiracy against the republic, bear out the statement³⁰

Although in the sixteenth and early seventeenth centuries it was not customary for an ambassador to be accompanied by his wife, incidentally the Spanish ambassador to the United Provinces in 1649 was called a hermaphrodite delegation for so doing, nevertheless by the beginning of the eighteenth century Bynkershoek declared that it had become the custom for married ambassadors to take their wives with them.

• This development raised the question more pertinently regarding the inviolability of the ambassador's suite. Gentilis took the position that the privileges of the ambassador should be extended

²⁷ Alberico Gentile, "De Legationibus," *Classics of International Law*, J. B. Scott, ed (New York, 1924), II, 113

²⁸ Jean Hotman, *De la charge et dignité de l'Ambassadeur* (2nd ed., Paris, 1604), f. 67b

²⁹ E. R. Adair, *The Extraterritoriality of Ambassadors in the 16th and 17th Centuries* (London, 1929), 64.

³⁰ *Ibid.*, 44 ff. Cf. E. Satow, *A Guide to Diplomatic Practice* (2nd edition, London, 1922), I, 254-260.

to his suite, including his servants. Grotius took the same stand³¹ Zouche was the first to draw a distinction between the diplomatic personnel of the embassy and the servants engaged solely in domestic service. The latter he claimed remained subject to local jurisdiction³² However, practice varied in this period as two Venetian cases will show In 1620 two men were arrested by the Venetian authorities as outlaws, but upon proving that they belonged to the household of the Spanish ambassador they were released. On the other hand, when in 1643 the secretary to the English resident in Venice carried off a nun from the convent he was imprisoned for six months and tried.³³

The Right of Asylum—The question as to whether the residence of the ambassador should always be regarded as inviolable was rather difficult because it was joined with the claim of the right of asylum and the so-called *franchise du quartier*. Since the persons of the ambassador and his suite were inviolable the principal reason for insisting upon the inviolability of the embassy was the questionable privilege of protecting refugees or criminals For this reason Bynkershoek very rationally opposed the inviolability of the embassy. The justice of his position was borne out by the fact that in Madrid and Rome the quarters of ambassadors became sanctuaries for thieves, and the district a refuge for vagabonds The conditions finally became so bad that in 1684 the foreign ambassadors at Madrid were notified that the *franchise du quartier* would no longer be recognized and by 1686 the Pope had obtained a renunciation of the *franchise du quartier* from all the important European states except France.³⁴

Nevertheless the right of granting asylum persisted and although numerous violations of the right occurred the government whose rights had been violated almost invariably demanded apologies and reparation. A very well known case which occurred in Venice in 1540 will serve as an example. Three Venetians who were accused by their government of having sold state secrets to

³¹ Grotius, *De Jure Belli ac Pacis* (Oxford, 1925). Vol. II, 447.

³² Richard Zouche, *Solutio Quaestionis Veteris et Novae* (Oxoniae, 1657), 167-168

³³ Adair, *op cit*, 138, 142.

³⁴ *Ibid.*, 222-223

the French sought asylum in the French embassy. When the French ambassador refused to extradite them on the ground that the diplomatic immunities enjoyed by his residence protected them, the Venetian government set up two cannons before the embassy gates and threatened to make use of them. The ambassador thereupon surrendered the traitors who were hanged forthwith. Francis I was so incensed at this violation of international law that for a period of two months he refused to receive the Venetian envoy at his court.⁸⁵

A century later when the residence of Lisola, the Imperial Ambassador in England, was broken into by parliamentary troops during the ambassador's absence, the English Parliament offered compensation and the punishment of the offender.⁸⁶ In fact, James I in 1624 had already gone on record as declaring that "The houses of ambassadors are privileged places and they cannot take them out of their houses."⁸⁷ During this period it appears that the *droit de culte* and the *droit de chappelle* were quite generally recognized. Except for the incident when Philip II of Spain objected to granting this privilege to the legation of Elizabeth of England it may be said that everywhere in Western Europe the ambassador could worship as he pleased with his family and servants within his embassy.

Expenses of Embassy—When temporary missions gave way to permanent embassies the question of entertainment raised another interesting problem. The customary procedure had been for the receiving state to furnish both board and lodging. Philippe de Commynes, ambassador for Charles VIII of France in the latter part of the fifteenth century declares that all of his expenses were defrayed by Venice while his colleague from Milan was not only given a well furnished house but also three gondolas and an income of one hundred francs a month.⁸⁸

The expense of such a system was too great to be borne, and early in the seventeenth century the rule was established that am-

⁸⁵ de Flasse, *Histoire général et raisonné de la diplomatie Française* (Paris, 1811), II, 6.

⁸⁶ Adair, *op cit.*, 217.

⁸⁷ *Ibid*, 211

⁸⁸ *Mémoires de Philippe de Commynes* (Paris, 1843), II, 403, 409.

bassadors extraordinary were to be entertained at the king's expense only from the time of their arrival at the court until they had had their first official audience, not more than three or four days later.³⁹ In fact, Machiavelli, who was ambassador at the court of France in the sixteenth century, found the expenses of being an envoy exceedingly burdensome "We beg of you," he wrote, "to send us without delay the funds necessary for the maintenance of our position . . . our fortune and credit do not permit us to live here as do many ambassadors for several weeks at our own expense and without receiving the stipend which your generosity is wont to grant us." ⁴⁰ Ordinary resident ambassadors had lost their right to entertainment even before this time. Nevertheless, for a century longer exceptional instances required a very elaborate and expensive entertainment, as shown by the case of the first Turkish ambassador who came to Paris in 1720.

Custom required that the envoys of the Sultan be entertained at the king's expense—they and all their retainers for the duration of their visit. The ambassador Mehemet-Effendi embarked at Constantinople the seventh of October, 1720, and with his suite consisting of some sixty persons was put in quarantine on the island of Maguelonne. He remained in quarantine from the sixteenth of December until the twenty-fifth of January and then he commenced his journey to Paris accompanied by a gentleman courier sent by the king to bid him welcome. A palace was made ready to receive him at Charenton where he rested for eight days before making his solemn entry into Paris. The day of the royal audience the king sent his carriage for the ambassador and more than thirty thousand troops were drawn up on each side of the line of march from the ambassador's hotel to the Palace of the Tuileries. Festivities and diversions of all varieties followed the official receptions. When Mehemet-Effendi began his return voyage on the third of August, 1721, he carried away with him a considerable number of handsome gifts. He received a diamond girdle, a collection of arms de luxe, muskets and pistols, clocks, watches, vases of Sèvres, inlaid gold furniture, and some fine Gobelin tapestries that he had particularly admired. It is not hard

³⁹ Adair, *op. cit.*, 268

⁴⁰ Machiavel, "Légations et Missions, Légation à la cour de France," *Oeuvres complètes*, Lettre XIII (Paris, 1837), II, 102.

to understand why the King of France was not over-enthusiastic when he learned the news that the Sultan intended to send a ceremonial embassy to Paris.⁴¹

By the end of the seventeenth century the rule had been well established in Europe that with the exception of the ambassadors of the Czar of Russia, who expected to be entertained at the expense of the monarch to whom they were accredited, the heads of states should pay the expenses of their ambassadors. In fact, however, the ambassadors found it necessary to contribute heavily from their private fortunes just as they are often compelled to do today.

Problems of Ceremonial and Etiquette—In this early period of permanent missions the problems of ceremonial and etiquette were exceedingly thorny. Before the institution of permanent embassies the envoys had no distinction either of class or of rank. According to Vattel: "In former times public ministers were almost always of the same grade and were called in Latin *legati*, a term which is rendered in French by the word *ambassadeurs*."⁴² During the Middle Ages a diplomatic representative, regardless of sender or of purpose, might be called *legatus*, *orator*, *nuntius*, *ablegatus*, *commissarius*, *procurator*, *mandatarius*, *agens*, or *ambaxator*.⁴³ However, with the establishment of permanent missions questions of precedence and ceremonial constantly arose, both during personal visits of ambassadors and on important ceremonial occasions. Although in the words of Vattel, "Nature has established a perfect equality of rights among independent nations, in consequence no one of them may justly claim to be superior to the others," nevertheless inequality of fact existed side by side with equality of law. Russia and Geneva might possess equal rights before the law but they were not equally powerful politically. At the beginning of the fifteenth century Martin de Lodi laid down the principle that the envoy of a great prince should take precedence over the envoy of a lesser, but it was not always easy to determine which was the greater.⁴⁴

⁴¹ D'Aubigny, "Un ambassadeur turc à Paris," *Revue d'histoire diplomatique*, III, 78 ff (1889).

⁴² E. de Vattel, "The Law of Nations," *Classics of International Law*, J. B. Scott, ed. (Washington, 1916), VI, 367.

⁴³ Krauske, *op. cit.*, 152.

⁴⁴ Nys, *op. cit.*, 330.

In order to regulate this hierarchy among the nations several bases had been proposed,—the form of government, the title of the head of the government, the ancient lineage of the reigning family, the size of the population, the antiquity of independence, the superiority of culture, but the states of Europe could not agree on any basis of primacy. The result was a constant series of disputes over rank among their representatives, sometimes of a rather violent nature. An amusing incident of this sort occurred in 1659 De Thou, the French ambassador, met the Spanish ambassador, Don Esteban de Gamarra, on a street in The Hague. Neither carriage would give way to the other, and the diplomats spent the next three hours trying to figure out a plan which would be acceptable to both. Finally it was decided that a fence to the right of Gamarra should be torn down so that he might proceed. In this way both won out, for the Frenchman kept the regular road and the Spaniard had the place to the right.⁴⁵

One of the most serious of these incidents took place between the ambassador of France and the ambassador of Spain in 1661 in London. The occasion was the arrival of the ambassador from Sweden. When the French ambassador sought to follow immediately after the Swedish ambassador the Spanish ambassador disputed the position with him. In the mêlée which ensued the Spaniards succeeded in killing the horses drawing the French carriage and in dispersing the retinue of the French ambassador. Louis XIV was so incensed at this insult that he recalled his ambassador from Madrid and dismissed the Spanish ambassador at Paris. Not satisfied, he notified the King of Spain that if he did not apologize adequately for this insult and if in the future he did not recognize the precedence of France he would declare war against him. Philip IV of Spain did not wish to recommence the war. He sent a new ambassador who declared at Fontainebleau in the presence of the foreign ambassadors that the Spanish envoys in the future would not dispute the position of the representatives of France.⁴⁶

Classifications Established by the Congress of Vienna—The question of rank and of precedence of the powers was regulated

⁴⁵ Krauske, *op. cit.*, 208.

⁴⁶ Ernest Satow, *A Guide to Diplomatic Practice* (2nd ed., London, 1922), II, 26. Cf. Genet, *op. cit.*, I, 311; and Pradier-Fodéré, *op. cit.*, I, 113.

at the Congress of Vienna in 1815 upon the basis of the rank of the diplomatic agents rather than upon the degree of importance of the states. Even at this Congress a committee worked for two months trying to establish three classes of powers as a means of regulating the position of their diplomatic representatives. But this attempt failed because it could not be decided in which class the great republics should be placed.

The regulations of the Congress of Vienna of 1815 supplemented by an article added by the powers reunited at Aix-la-Chapelle in 1818 established the following classification of diplomatic representatives: the first class included ambassadors, legates *a latere*, that is to say, envoys extraordinary of the Pope chosen from the cardinals and charged with a special mission; and nuncios, that is to say, the envoys of the Pope on permanent mission, chosen from outside the ranks of the cardinals. The second class included envoys extraordinary, ministers plenipotentiary and the apostolic internuncios, that is to say, the envoys of the Pope of second class. The third class introduced by the Congress of Aix-la-Chapelle comprised ministers resident. The fourth class comprised *chargés d'affaires* and *chargés d'affaires ad interim*.⁴⁷ The representatives of the first three classes are accredited to sovereigns while the *chargés d'affaires* are accredited to ministers of foreign affairs. Article IV of these regulations declares diplomatic envoys shall rank within each class in accordance with the official notification of the date of their arrival.⁴⁸

The eight powers signatory of the regulations made at Vienna were Austria, Spain, France, Great Britain, Portugal, Prussia, Russia, and Sweden. Gradually this classification was adopted more or less completely by all the European powers with the exception of Turkey. The United States has adopted these rules in its instructions to its diplomatic officers issued in 1897 and revised in 1927. Today one can say that all civilized states accept this classification, although this does not prevent each state from establishing as it sees fit the hierarchy of its diplomatic corps.⁴⁹

⁴⁷ Paul Fauchille, *Traité de droit international public* (Paris, 1921-1926), I, Pt 3, 42.

⁴⁸ For text see G. F. de Martens, *Nouveau recueil de Traités de l'Europe* (Gottingen, 1887), II, 449.

⁴⁹ For example, a decree of the Council of the Commissars of the People dated May 22/June 4, 1918, provided that "the titles of ambassadors, ministers and other

The Congress of Vienna regulated also to some extent the question of precedence in the signing of treaties by adopting the long-familiar usage of the *alternat*,⁵⁰ for the copies to be retained by each state, and permitting the position of other signatories to be decided by lot. Article VII of the regulations states that "*Dans les actes ou traités entres plusieurs puissances qui admettent l'alternat le sort décidera entre les ministres de l'ordre qui devra être suivi dans les signatures.*"⁵¹ However, in practice the powers have conformed as regards signatures to the alphabetical order according to the initial letter of the name of each state as written in French. Thus the United States in its French form, États-Unis, regularly precedes France in multilateral agreements.

Since the regulations of Vienna, no further official effort to classify diplomatic envoys has been made on an international scale. However, it should be noted that Russia since the fourth of June, 1918, has renounced further participation in the regulations of Vienna by establishing a uniform rank designated as envoys plenipotentiary for all its diplomatic representatives. Nevertheless, to avoid difficulties in the letter of credence the representatives' status in accordance with the Vienna regulations is also given (in parentheses).⁵²

We should mention also a fifth class which is called diplomatic agent. This rank of envoy is found as a rule only in states which are not fully sovereign. To Egypt and Morocco a number of powers sent diplomatic agents.⁵³

The Right of Legation—Inasmuch as international law rests upon custom as well as upon treaties, it has already been shown that a right of legation has existed from very ancient times. It seems regularly to have been an attribute of sovereign states. Gentilis in his interesting volume "On Embassies" thus presents

diplomatic representatives are abolished and all representatives of the Russian State accredited to foreign states shall be denominated plenipotentiary representatives of the Russian Socialist Federated Soviet Republic." A. H. Feller and M. O. Hudson, *A Collection of the Diplomatic and Consular Laws and Regulations at Various Countries* (Washington, 1933), II, 1195

⁵⁰ That is, giving each state first place for its signature in its own copy of a treaty.

⁵¹ de Martens, *op cit.*, II, 450-451.

⁵² Fauchille, *op cit.*, I, Pt. 3, 43.

⁵³ Satow, *op. cit.*, I, 246.

the historical attestation of the principle: "The right of embassy, Cicero says, is defended by a rampart of human and divine authority, and Caesar and others agree with him. It is in fact according to my interpretation a right that is by reason of a certain divine providence, immutable, of universal application, and admitted and recognized even by barbarous peoples."⁵⁴

Vattel clearly expresses both the law and the reason for it. "Every sovereign state has therefore the right to send and to receive public ministers. For they are the necessary agents in the negotiation of the affairs which sovereigns have with one another, and in the maintenance of the intercourse which sovereigns have the right to keep up."⁵⁵ However, the states are not compelled to make use of this right of legation. Its exercise rests upon the mutual consent of the two sovereigns.

The right of sending public ministers is called the active right of legation, while that of receiving is called the passive right of legation. The so-called right of legation has often been specified in treaties. A treaty in 1614 between Sweden and Holland provided for the designation of reciprocal missions between the two signatory parties. The treaty of Belgrade between Russia and Turkey signed in 1739 permitted the Czar to name a minister resident at Constantinople.⁵⁶

In the exercise of the right of legation states have assumed the greatest freedom of action. For example, a single minister may at the same time be in charge of several missions accredited to different governments. In 1825 the Argentine accredited the same minister to both Paris and London. At the present time the United States accredits a single public minister to Estonia, Latvia and Lithuania. A state may be represented by the diplomatic representative of another state by agreement with the latter. In 1796 Great Britain and Holland were represented by a single minister in Spain; in 1870 Peru utilized the services of the ministers of the United States in order to be represented in China and Japan. States do not always exchange representatives of the same class. For example, France sends an ambassador to Switzerland and receives a minister.

⁵⁴ Alberico Gentili, "De Legationibus," *Classics of International Law*, J. B. Scott ed. (New York, 1924), II, 58.

⁵⁵ Vattel, *op. cit.*, III, 362.

⁵⁶ Satow, *op. cit.*, I, 190.

In the development of diplomatic practice the question arises whether semi-sovereign states and protectorates possess an active right of representation. Although a difference of opinion among authorities exists, it is generally conceded that the extent of the right of representation depends upon the nature of the relations between the superior state and the semi-sovereign or protected state. Today, for example, Canada, the Irish Free State and the Union of South Africa exchange ministers with the United States due to their very important mutual interests.

The Codification of the Laws of Diplomacy—This brief sketch of the historical development of diplomatic practice indicates that few principles of international law are more thoroughly grounded in antiquity or have been more consistently recognized in their observance than many of the principles of diplomatic law. Therefore, it is not surprising that the desirability of crystallizing these principles into an international code should have received considerable attention from outstanding authorities in the field. Bluntschli in 1868, Fiore in 1890, Pessoa in 1911, and Phillimore in 1926 have covered the subject adequately in their draft codes. L'Institut de Droit International passed a resolution in 1895 for the codification of the regulations covering diplomatic immunity and in 1929 revised these regulations in order to make them conform to the evolution of international law in these matters. Space prevents more than the most casual consideration of this question, but the recent efforts in this direction deserve at least a passing notice.

The third Pan-American Conference, which met at Rio de Janeiro in 1906 appointed a commission of jurists to prepare a codification of international law in the form of draft conventions covering subjects which seemed ripe for codification. As the commission did not begin work until 1912 it is only since the World War that it has been able to function effectively. In 1924 the governing board of the Pan-American Union asked the American Institute of International Law to submit projects of international law to the Committee of Jurists. Thirty projects of public international law were prepared and considered by the committee of jurists at a conference in Rio de Janeiro in 1927. This conference

reduced the projects to twelve.⁵⁷ The sixth Conference of American States which met at Havana, Cuba, in 1928, debated these projects at great length and accepted seven of them. One of these adopted was a convention on diplomatic officers. It proposed to codify the law of diplomacy under five sections: chiefs of missions, personnel of missions, duties of diplomatic officers, immunities and prerogatives of diplomatic officers, and termination of the diplomatic mission. One of the interesting changes made was a classification of diplomatic officers into two categories, ordinary and extraordinary, the former being permanent representations, the latter on special mission. This convention had been ratified by nine states by July 1, 1935.

The other recent attempt at codification was under the direction of the League of Nations. In execution of an Assembly resolution of September 22, 1924, the Council of the League appointed a committee of experts which selected eleven subjects for investigation. Seven subjects were picked and a questionnaire sent to various governments to obtain their reactions. After studying the replies the Committee reported that the seven subjects were ripe for codification. Among these subjects we find Diplomatic Privileges and Immunities. At the subsequent session the Committee of Experts prepared a questionnaire upon the "Revision of Classification of Diplomatic Agents". However, neither of these subjects was considered at the first conference for the codification of international law held at The Hague in 1930.

In view of this interest in the subject the faculty of the Harvard Law School undertook to organize a research body to prepare a draft convention on each of the subjects selected as ripe for codification. Committees were formed, and drafts were formulated and discussed at meetings of reporters and advisers. The draft on Diplomatic Privileges and Immunities was prepared and published as a supplement to the *American Journal of International Law* in 1932. As a valuable aid to this work the Carnegie Endowment published in 1933 a collection of the diplomatic and consular laws and regulations of various countries under the direction of Manley O. Hudson and A. H. Feller.

⁵⁷ For texts of these projects see *American Journal of International Law, Supplement*, January, 1928.

Professor Redslob has named the nineteenth century the epoch of science, the twentieth the century of justice. Diplomatic representatives whose primary function is the maintenance of peace will aid materially in the future as they have in the past in making this century an era of justice. Nevertheless, an adequate development of the principles of diplomatic law and their universal acceptance are essential preliminaries to the complete accomplishment of this result. Certainly an early and definitive codification of diplomatic law and practice will accelerate the approach to an era of international justice.

CHAPTER II

THE HISTORICAL DEVELOPMENT OF CONSULAR PRACTICE

The Greek Proxenoï—Consular practice like diplomatic practice has its roots buried deep in the dark earth of antiquity. In fact, permanent consulates quite similar to our present institutions precede by many centuries the establishment of permanent embassies. In the earliest examples which are to be found of an institution protective of commerce the judicial function is paramount. Certain countries have permitted foreign merchants domiciled within their territories to choose magistrates who might judge disputes between their countrymen living abroad, in accordance with their own national laws.

Herodotus relates how the Egyptians six centuries before Christ granted to the Greeks who were established at Naucratis the right to choose among themselves a magistrate who should apply to them the laws of the mother country.¹ These magistrates were called *προστάτης*.

In Greece where the foreigner was deprived of all political rights it was customary to require domiciled aliens, *métèques*, to choose a protector or *prostates* who served as their intermediary in judicial and political relationships with the state.² However, among the Greeks we find another institution, *προξενία* which is much more similar to the present consular institution. The *proxenus* was for the foreign state what the *prostates* was for the foreign individual. The arrangement of *proxenus* constituted a veritable contract between an independent state and a particular citizen of another state. By this contract the *proxenus* became the official protector or *prostates* of the government which commissioned him.³ In fact, in modern Greece the term *proxenus* is equivalent to our word *consul*.

¹ Alex de Milnitz, *Manuel des Consuls* (London, 1837), I, 9.

² See M. Clerc, *Les Métèques athéniens* (Paris, 1893).

³ See A. Schaube, "La Proxénie au Moyen-Âge," *Revue de droit international et législation comparée*, XXVIII, 531 (1896).

Proxenoï were appointed by the foreign government from citizens of the country where protection was desired. Thus the proxenus had an official status as regards the government he represented but no special status in his own country. The proxenus was accustomed to have the decree of his nomination engraved upon marble with bronze hands as emblems of alliance, or with fishes as symbols of travel and maritime intercourse.

The duties of the proxenus were manifold. He protected the nationals of the government he represented and acted for them before the assemblies and the courts. He served as witness when they made their wills and he determined the succession of deceased foreigners without heirs. He facilitated the sale of cargoes and he obtained security for the loans of his protégés.⁴

The proxenus received foreign ambassadors and other diplomatic officials and procured admission for them to the assemblies, temples and theaters. He served in the making of treaties. He was often chosen as arbitrator in disputes between the government which he represented and his own government. At times he intervened to prevent war. Quite often his own country sent him as ambassador to the country which he represented. Callias, the proxenus of Sparta in Athens, was sent several times to Sparta by Athens as ambassador.

Although it is not known whether the proxenoï received payment for their services they did enjoy many privileges. In a war between their own state and the state they represented their persons and property were protected. They had the right of free import and export of all merchandise. They were given exemption from certain taxes and the majority of imposts. They had the right of access to public assemblies. They had the right to have their personal affairs judged out of turn. They had the right to acquire and possess real estate. They could use a special seal in their official duties. Also they could place over the doors of their houses the arms of the city which they represented.⁵

Outstanding Greeks served in the capacity of proxenoï.

⁴ For an excellent brief account see Coleman Phillipson, *The International Law and Customs of Ancient Greece and Rome* (London, 1911), I, 147-156. See also Paul Monceaux, *Les Proxénies grecques* (Paris, 1886) and C. Tissot, *Des Proxénies grecques et de leur analogie avec les institutions consulaires modernes* (Dijon, 1868).

⁵ D. B. Warden, *On the Origin, Nature, Progress and Influence of Consular Establishments* (Paris, 1813), 36.

Pindar represented Athens at Thebes, Thucydides at Pharsalis, Alcibiades and Cimon represented Sparta at Athens, and Demosthenes served as proxenus for Thebes in the same city. "There is evidence that this institution was common to more than seventy-eight Greek states, cities or confederations." ⁶

"By way of summary," states the eminent authority Monceaux, "as permanent intermediaries between two cities, as patrons of a foreign city before the tribunals and assemblies of their home country, as diplomats and negotiators of treaties, as arbitrators between states, the proxenoi played a very considerable rôle in the international life of ancient Greece." ⁷

Kindred Institutions among the Romans—The Romans never looked with the same favor upon commerce as did the Greeks, and when they became masters of the Hellenic world the institution of proxenia had already gone into decline. Nevertheless in the institution of patronage among the Romans we see a certain resemblance to the Greek proxenia. The principal difference was that in the case of the Roman patronat the patron or protector was usually a Roman patrician who was willing to act in this capacity towards a foreign city which owed allegiance to Rome. Sometimes the patrons were chosen by the foreign communities, sometimes the conquerors were named by the Roman senate as protectors of the vanquished. Cicero has clearly stated the situation: "Justice has always been respected to such an extent with us that the very persons who received the surrender of cities or conquered nations became their patrons in accordance with the custom of our fathers." ⁸ The decrees conferring the patronat were engraved upon plaques of bronze or marble which were called *tessera hospitalis*. Some of the most influential Romans served as patrons of foreign peoples. Cicero was patron of Syracuse, Caesar of Chios, Cato of Cyprus and Cappadocia, Pliny the Younger of Betica. ⁹

Another institution existed among the Romans which perhaps

⁶ Paul Leroy, *Des consulats, des légations et des ambassades* (Paris, 1876), 84.

⁷ C. V. Daremberg et E. Saglio, eds, *Dictionnaire des antiquités grecques et romaines* (Paris, 1884), 740.

⁸ Cicero, *De Officiis*, I, 38

⁹ A. M. Candiotti, *Historia de la institución consular en la antigüedad y en la edad media* (Buenos Aires, 1925), 85

might be compared to our present day consular establishment. It was the *praetor peregrinus*. Foreigners in Rome were called peregrines and the *praetor peregrinus* was the magistrate charged with settling their disputes in accordance with the principles of *jus gentium*. The *praetor peregrinus* had the same rank as the *praetor urbanus*. Although his principal function was to interpret the law between foreigners or between Roman citizens and foreigners he served sometimes as ambassador and performed certain international judicial functions.¹⁰ The law applied by the *praetor peregrinus* to the foreigner was based partly upon their national laws and partly upon the *jus gentium*.

It is also to the Romans that we are indebted for the word consul. As employed by the Romans, the word consul referred to one of the two principal magistrates of the Roman republic. The term was later adopted both by emperors and kings. It finally became so popularly used that it lost its standing with monarchs and the term came to be used to designate the chief magistrates in the cities of Southern Europe; for example, Provence and Languedoc of Southern France in the year 1000 A. D. and some of the Italian cities at the same period were ruled by magistrates who were given the title of "consuls".¹¹ It is also during the Middle Ages that we encounter the term *judge-consul* or *merchant-consul*, a magistrate competent to pass upon commercial disputes. It is at this period also that we find the term overseas consul—*consul in partibus ultra marinis*—to designate the official sent by an independent city to the port of a foreign country to protect the commerce and decide the disputes of its nationals.¹²

Establishment of the Consular Régime—After the fall of the Roman Empire we find a law of the Visigoths of the fifth century which set up a sort of foreigners' court which was authorized to exercise jurisdiction over foreigners in accordance with their own national laws. These foreigners who served as judges were named *telonarii*.¹³

According to Pardessus this law of the Visigoths is thought

¹⁰ Phillipson, *op cit.*, I, 269.

¹¹ Sir Geoffrey Butler and Simon Maccoy, *The Development of International Law* (London, 1928), 83.

¹² de Milnitz, *op cit*, I, 3-6.

¹³ Candiotti, *op. cit.*, 99-101.

to be one of the most ancient examples of the jurisdiction accorded to consuls that a nation exercised over its nationals residing abroad.¹⁴ We should also note in passing that the Chinese possessed tribunals of commerce in the eighth century and the Arabs in the ninth century, so that it might well be disputed as to which nation has the honor of setting up the first consulates.¹⁵ It was only when the crusades created the great development of commerce between the cities of the Mediterranean and the Near East, however, that the real consular régime began. In fact, Milnitz declares that the development of the consular institution abroad can be classed among the most remarkable and most useful effects that these armed pilgrimages produced upon the conditions of maritime commerce of Europe.¹⁶

Before continuing this sketch of the historical development of the consular institution we should note the outstanding maritime codes of the Middle Ages.

The Maritime Codes of the Middle Ages—Unfortunately the oldest and one of the most famous of these codes, the Lex Rhodia, has come down to us in considerably abbreviated form. References to the law of jettison, undoubtedly the Rhodian law of *jactu*, were made by both Cicero and Sallust.¹⁷ The texts that we have were probably put together from earlier treatises and local customs somewhere between 600 and 800 A. D.¹⁸

The first code that specifically covers the work of consuls is the one known as the Tables of Amalfi and probably dates from the eleventh century although some authorities date it as late as the fifteenth.¹⁹ According to the rules laid down in this code captains departing and returning must first visit the consuls and the consuls are empowered to punish sailors who have not carried out the terms of the contracts with the owners.

Another famous collection of maritime customs is the *Rôles*

¹⁴ J. M. Pardessus, *Collections des lois maritimes antérieures au XVIII^e siècle* (Paris, 1828-1845), I, 153.

¹⁵ M. Capello, "Les consulats et les Bailages de la République de Venise," *Revue de droit international et législation comparée*, XXIX, 161 (1897).

¹⁶ de Milnitz, *op. cit.*, II, 13.

¹⁷ *Ibid.*, I, 17-18.

¹⁸ See the excellent study by Walter Ashburner, *The Rhodian Sea Law* (Oxford, 1909). The text may also be found in Pardessus, *op. cit.*

¹⁹ Candiotti, *op. cit.*, 237-240.

or Judgments of Oléron whose exact date is also unknown although the various texts which are found in Great Britain in a collection designated the *Black Book of the Admiralty* are of the fourteenth century.²⁰ Pardessus and Milnitz agree that the *Rôles d'Oléron* are of French origin and Twiss thinks that they were the result of legal privileges granted by the Dukes of Guienne to the Commune of Oléron in the twelfth century. The judgments are largely concerned with relations between the master of the ship and his crew and no mention is made of magistrate or consul.

The Consolato del Mare—Of all the compilations of maritime usages, however, the *Consolato del Mare* is the most famous. Although the date and place of this compilation are uncertain, the authorities for the most part attribute the *Consolato* to Barcelona and they believe that it was originally drafted in the fourteenth century. There are several editions of this manuscript. One edition published in 1494 in Barcelona is regarded as the first edition and an excellent copy of this edition is to be found in the *Bibliothèque Nationale de Paris*. There is also in the *Bibliothèque Nationale* in Paris two manuscripts of the *Consolato* written in Catalanian on fourteenth century paper.²¹

Milnitz characterizes the *Consolato* in these words: "The *Consolato del Mare* although drawn up in a crude and somewhat jumbled fashion is really a remarkable production; whatever its imperfections may be, one cannot fail to appreciate the wisdom of the regulations which it lays down and which have become the basis of the maritime legislation of Europe today. . . . The *Consolato* is more extensive than the *Rôles* of Oléron and furnished the navigators of the Mediterranean a résumé of the laws that each one was accustomed to obey in his own country; it was more complete than any one of these isolated laws, since it borrowed from each of them what the others lacked, and withal it furnished such an excellent codification that solely by the authority of its common sense and wisdom it served as guide in the tribunals of commerce." ²²

²⁰ Travers Twiss, ed., *The Black Book of the Admiralty* (London, 1871-1876), 4 vols., I, II, III.

²¹ For an excellent commentary on the origin of the *Consolato* see *The Black Book of the Admiralty*, *op. cit.*, III, xxv-lx, etc.

²² de Milnitz, *op. cit.*, I, 99-100.

The most interesting commentary on the *Consolato*, however, comes from a contemporary observer, Jerome Paul, the chaplain of Pope Alexander III, who wrote an account of the city of Barcelona in 1491 A. D. "There are at Barcelona laws as to buildings and as to commerce, and judgment is rendered according to them on principles of equity, and summarily by two magistrates who are called consuls; and hence the laws are called consular laws, the use of which laws prevails at this time not merely in that city but in almost every maritime city, the controversies of mariners and of merchants are settled by these laws, or by laws derived from them, with the greatest authority; and as formerly men spoke of the Laws of Rhodes, now everyone speaks of the Laws of Barcelona." ²³

In some editions of the *Consolato* the compilation begins with forty-two chapters relative to the election of consular judges and the method of procedure before them. It is thought that this preliminary code was drawn up by King Peter III for the city of Valencia. These regulations are not a part of the *Consolato* proper, but rather an injunction requiring the observance of the rules which follow.²⁴ The *Consolato* is a complete codification of maritime law of this period and it is here that are found the principles of neutrality such as: a neutral flag does not protect enemy cargo but neutral cargo is free under an enemy flag. It is curious to note that the word consul is used only once in the *Consolato* proper, in chapter LXXV.

Germanic Maritime Law—In concluding this sketch of mediæval sea law largely the product of the Latin countries, one should not overlook completely the contributions of the Germanic peoples. Perhaps the most famous of these compilations is known by the title of Maritime Law of Wisby, a city situated in the Baltic upon the island of Gothland. This code dates from the fourteenth century; the first edition seems to be the copy made in 1505 in Copenhagen.²⁵ This compilation has many similarities to the Codes of Lubeck and undoubtedly the two together with the *Consolato del Mare* served as a basis for the laws of that famous

²³ *The Black Book of the Admiralty*, op. cit., III, lviii.

²⁴ de Milnitz, op. cit., I, 100. For text see Pardessus, op. cit., V, 374.

²⁵ de Milnitz, op. cit., I, 78

commercial organization of the Middle Ages, the Hanseatic League.²⁶

This powerful commercial organization, which controlled the maritime trade of all Northern and Western Europe from the thirteenth to the sixteenth century, maintained consulates in nearly one hundred different cities of Northern and Western Europe. Although instead of choosing noblemen as was the custom of the Mediterranean cities, the Hanseatic merchants chose consuls or aldermen from their own numbers, nevertheless the functions and duties were approximately the same. In fact, Candioti has proved that the claim oftentimes made that the Hanseatic League employed the institution of aldermen in all parts of Europe except Portugal is inaccurate. He has proof that they had set up foreign consulates in Seville and Sicily as well as in Portugal.²⁷

Mediterranean Commerce and Consular Establishments—Merchants of the Mediterranean cities of Venice, Pisa, Genoa, Amalfi, Marseilles and Barcelona who had adopted the *Consolato del Mare* to settle their commercial differences were wont to travel to Egypt, Palestine and Syria. They set up factories and mercantile establishments there in order to facilitate their commercial operations. These trading establishments occupied a special quarter in each city and they were generally exempt from local taxes. The merchants were not willing to be tried in accordance with the laws of the Saracens. It was therefore necessary for these merchants to have their disputes judged by a magistrate familiar with their national laws. They also had need of a representation accredited to the Mussulman government through whom they might present their petitions for redress the more effectively and thereby obtain justice. This magistrate chosen from among the merchants of a single city was called baile or consul. His jurisdiction was obtained from the Mussulman princes under the form of a treaty or capitulation.

The authorities have never been able to agree upon the exact

²⁶ A treaty of 1438 between King Henry VI of England and the consuls of the Teutonic Hanse provided that henceforth the laws and ordinances of the Consolato should be observed in matters pertaining to consular jurisdiction at Hanseatic ports.

²⁷ Candioti, *op. cit.*, 203-206 See also Worms, *Histoire commerciale de la Ligue hanséatique* (Paris, 1864)

date of the first consular establishment. Milnitz finds that the earliest date of the institution in the Middle Ages is anterior to the tenth century and the merchants of Pisa were the first to obtain these privileges in the Levant.²⁸ Pawinski also declares that the consuls of Pisa were the first representatives of this new institution and gives the date as 1087.²⁹ Fauchille states that the Greek Emperor in Constantinople accorded the Venetians the right of sending magistrates to judge their citizens in both civil and criminal matters in 1060.³⁰ Perhaps we may say with de Laigue that French, Pisans and Venetians benefited concurrently from the same advantages and by many years were the first to make use of consuls

The functions and duties of consuls in this early period as laid down by the regulations of Barcelona in 1266 gave them "full jurisdiction to order, govern, cite, regulate, punish and take any other action with respect to persons who voyage from our shores to places across the sea and establish their residence in those ports . . ." ³¹

Don Antonio de Capmany gives an interesting picture of the organization and powers of consuls as established by King Peter IV of Aragon by his patent of 1347 conceding to the city of Barcelona the right to establish a consular tribunal.

There were two consuls, a military consul and a merchant consul who presided over the college of merchants, an organization of merchants registered in the city. The consuls were accorded honors equivalent to those entitled to the title "the magnificent" and when they made a formal public appearance they were preceded by two mace bearers who carried maces of silver that were lowered before no one. They were placed under the jurisdiction of the Barcelona municipal council.

The two consuls exercised jurisdiction in the first instance in accordance with forms established by the Consolato del Mare. They enjoyed the right of making regulations supplementary to the Consolato del Mare. A decree of Pierre IV attributed to them exclusive and final jurisdiction over all maritime and commercial questions and their judgments were to be considered as if rendered in person by the

²⁸ de Milnitz, *op. cit.*, I, 162

²⁹ A. Pawinski, *Zur Entstehungsgeschichte des Consulats in den Comunen nord und mittel-italiens* (Göttingen, 1867), 37

³⁰ Paul Fauchille, *Traité de droit international public* (Paris, 1921-1926), I, Pt. 3, 112.

³¹ Candiotti, *op. cit.*, 319

King They had the right of imposing fines and other civil penalties upon bankers who violated the laws established to protect the credit. They had jurisdiction in matters relating to bills of exchange, corporations, associations and contracts of every sort involving business matters.

The consuls could also together with the municipal council suspend in case of fraud brokers and members of the stock exchange.³²

An equally interesting although somewhat different account is given by Schaube. Certain well known citizens of Narbonne in 1278 chose as consul at Pisa the notable Pisan Ugolino. He had three principal functions: first *hospes*, second *defensor*, and last *judex*.

As *hospes* "he was obliged to assure to all the citizens of Narbonne who might come to Pisa the necessary shelter for themselves and at the same time facilitate the disposition of their merchandise. . . ."

As *defensor* "he was called upon to protect the rights, the privileges and the liberties of the citizens of Narbonne living in Pisa, and at the same time to defend every citizen of Narbonne individually against injustice and violence. . . ."

As *judex* he must watch over the citizens of Narbonne residing in Pisa and had both the right and duty of maintaining order and justice among them."³³

The Development of the Consular Institution—The development of the consular institution was quite rapid. The city of Amalfi sent a consul to Naples in 1190 and Marseilles obtained in 1226 the right to have consuls in the Duchy of Savoy with jurisdiction over their compatriots. Genoa created two *consules maritimi* in 1250 to judge foreigners and settle maritime disputes. The Genoese obtained from King Ferdinand of Castille in 1251 the right of having consuls at Seville who could judge not only the differences between their nationals but also the disputes between the Genoese and the citizens of Seville. In the thirteenth century Venice had consuls in more than thirty cities including Montpellier, Tunis, Alexandria, Cairo, and Damascus.³⁴ In 1265

³² de Milnitz, *op. cit.*, I, 170 ff.

³³ Schaube, *op. cit.*, 529.

³⁴ Capello, *op. cit.*, 173

the Venetians were accorded the right of appointing a bailo to Constantinople who later became consul general. As consul general of the establishment he exercised all the rights of a lord in the Venetian quarter.⁸⁵ When Florence in 1423 sent an embassy to Egypt to obtain a commercial capitulation the ambassadors were instructed to insist that the Florentine consul receive the same privileges and honors accorded to the consuls of the most favored nations.

The English merchants trading with Prussia and the Hanseatic towns as early as 1391 had confirmed by the crown the appointment of a "governor" whose duty it was to settle disputes between English merchants and to protect their interests in dealing with foreigners. Similar "governors" were later set up in Holland, Norway, Denmark and Sweden.⁸⁶

To Richard III of England goes the honor of having the first consul by royal authority in England. The letters patent were issued in 1485 to a certain Laurent Strozzi and their provisions are worthy of citation:

For Laurence Strozzi

To all and singular to whom these Presents shall come, Greeting
Whereas certain merchants and others of this our Kingdom intend, God willing, to visit certain foreign countries particularly Italy with their own vessels or transported in others . . . and inasmuch as it has been found advantageous among the states to appoint a particular magistrate by whose judgment and finding the differences and disputes which may arise among our merchants and others while exercising their trades in these foreign lands may be able to be investigated and settled . . . and since the outstanding fidelity and probity of the Florentine merchant, Laurence Strozzi, has been brought to our attention . . . we do establish, ordain and name the aforesaid Laurence as far as is within our power the jurisdiction of hearing and judging the disputes, litigations and controversies which may arise between our subjects in those parts. . . .⁸⁷

⁸⁵ Capello, *op cit*, 176 ff.

⁸⁶ Butler and Maccoby, *op cit.*, 212.

⁸⁷ The original Latin copy of this letter patent as given herewith is found in Thomas Rymer, *Foedera, Conventiones, Literae*, etc., 20 vols (London, 1726-1735), XII, 270

"Pro Laurentio Strozzi.

"Rex omnibus, ad quos etc. Salutem.

Quia nonnulli mercatores et alii subditi hujus regni nostri Angliae habent in-

Russia was one of the last among the European powers to set up a consular system. Peter the Great sent the first consular agent to Holland, a second to Bordeaux and a third to Cadiz in 1723. The latter carried not only the consular letters patent but also letters of credence addressed to the central government.⁸⁸ Austria did not appoint consuls in Europe until 1752 but she had sent consuls to the Levant before this time.

Emphasis should be placed upon the fact that the general practice during the Middle Ages was to name a notable citizen of the city where representation was desired as consul of the city desiring protection. It is only in the sixteenth century that the custom began of naming nationals as consular representatives in foreign lands. The extent of consular powers even in the seventeenth century was quite variable. For example, the consuls at Venice had no jurisdiction over their nationals, while those at Florence and London had the right to settle all the disputes which might arise among their nationals.⁸⁹ The powers of consuls in the Near East were naturally very much broader in extent than those of consuls in Europe because the need of protection for Christian merchants and sailors was much greater.

Consular Development in the Middle Ages—A summary of the duties and functions of consuls of the Middle Ages and of the beginning of modern times indicates a very extensive jurisdiction. The consul had to protect his nationals and act in their defense; he was expected to give them assistance and advice; it was his duty to prevent frauds and to see to it that treaties were properly

tensionem, Deo volente, Partes externas, maxime ipsas Italiae, cum suis propriis seu conductis navibus bonis et mercibus, frequentare, ac per experimenta aliarum Nationem pro certo facientes oportere inter eos aliquem Magistratum peculiarem erigi et creari, cuius iudicio et Diffinitiori lites et Contentiones, quas inter ipsos subditos nostros Mercatores seu alios dum in illis partibus moram traxerint suboriri contigerit, submitti debeant . . .

"De fidelitate igitur Probitate ac egregius Virtutibus dilecti nobis Laurentii Strozzi Mercatoris Florentini plenissime confidentes, . . . ipsum Laurentium praeficimus, constituimus et ordinamus Consulem . . .

"Damusque et concedimus eidem Laurentio, quantum in nobis est, facultatem et potestatem causas, quaestiones controversias atque lites, quas inter ipsos subditos nostros in partibus ipsis moveri contigerit audiendi . . ."

⁸⁸ F. Borel, *De l'origine et des fonctions des consuls* (Leipzig, 1831), 18

⁸⁹ P. E. Reynaud, *Des ambassadeurs chez les romains, des consulats* (Paris, 1874), 154.

executed, he must protect the deposits consigned and take the necessary measures in case of accident or shipwreck; he had to settle disputes arising between his nationals and to fix the penalties when the local authorities permitted it; it was his duty to rule upon inheritances and to protect the national religion. The consul obtained the authority to exercise these functions through letters patent or charters of privilege issued by the country in which he exercised his profession. The letters patent finally came to be called *exequaturs*, *bérats* in the Levant. Inasmuch as consular jurisdiction was an infringement upon territorial sovereignty consular rights for the most part had to be obtained by treaties.

In the Near East where consular rights were of the greatest importance, the European powers were quick to see the need for treaties. The Italian cities signed treaties of commerce with the Ottoman Empire in the fifteenth century, a few of which bore the name of capitulations. France, however, was the first of the great Powers to sign capitulations with Turkey. Francis I in 1535 signed with the Sultan of Turkey a treaty of commerce and friendship which provided that their subjects could respectively buy, sell, exchange, convey and transport by land and by sea from one country to the other all sorts of merchandise and that a bailo or consul "might hear, judge and conclude all trials, lawsuits and disputes both criminal and civil which might arise between merchants and other subjects of the King" ⁴⁰ The provisions of this treaty have served as a foundation for subsequent consular jurisprudence in the Levant.

Although the wars of the fifteenth century arrested the development of the consular institution, at the end of the sixteenth century it began to flourish again. To the extent that commercial relations acquired greater importance it was natural that the states should adopt an institution which had already proved itself so useful. But with the development of monarchical authority the power of nominating consuls was taken over by the State. The consul ceased to be the representative of a group of merchants in a strange city. He was now commissioned by the government and became an official representative of the State. The result in Europe

⁴⁰ G. Noradounghian, *Recueil d'actes internationaux de l'Empire Ottoman* (Paris, 1897), Vol. I, 83.

was that consuls lost to some extent their rights of jurisdiction over their nationals. The sovereign states no longer wished to surrender the prerogative of dispensing justice in their own territories.

The establishment of permanent embassies at this period tended to diminish the powers of the consuls inasmuch as consuls were no longer required to perform diplomatic functions. Little by little as the consuls lost their judicial powers their duties in relation to commerce increased and their principal functions became the protection and safeguarding of their country's commercial and industrial interests and a similar duty for their nationals. It was only in the Levant and the Far East that the consuls retained their judicial attributes.

During the seventeenth and eighteenth centuries the development of the consular service was constant although not so rapid as in the second half of the nineteenth century. The improvement in communication facilities and the remarkable increase in commercial activities during this period exerted a profound influence upon the extension of the consular service. Chateaubriand while discussing the Congress of Verona remarked that the time of the ambassadors had passed and that that of the consuls had returned.

The Present Situation—It is in the seventeenth century that we have the beginning of national legislation to regulate the organization and jurisdiction of consular establishments. France disputes with the Netherlands the honor of being the first state to set up systematic legislative provisions relating to consuls. It was the ministry of Colbert which gave to France the famous marine Ordinance of 1681, an important part of which was devoted to consulates. This remarkable ordinance, which is still in force except for those provisions which have been formally repealed, treats both of consular organization and its judicial and extra judicial functions. Important modifications were made in the Ordinance of 1681 by the Edict of 1778 and the ordinances of 1781, and in 1833 a general codification was made by a series of important decrees. The present organization and powers of the French consular service is based upon this legislation slightly

modified by a few more recent ordinances and decrees, particularly the four decrees of 1920.⁴¹

The first general consular regulations adopted by the States General of the Netherlands actually antedate by several years both the instructions and the great ordinance of Colbert. The Dutch regulations applicable to consuls resident in Spain, France, and Italy were issued in 1658. These were modified by successive enactments leading up to the fundamental regulations of 1871 which, with minor changes, still stand.⁴²

The Emperor of the Holy Roman Empire did not appoint consuls and the first German consular regulations seem to have been issued by Prussia in 1796. The Confederation enacted a law regarding the organization of consulates in 1867 which was completed by the instructions of 1871 and 1873. These regulations are for the most part still in force.⁴³ Great Britain, which sent her first consul to Italy in 1410, enacted no legislation regarding consuls until the nineteenth century and the first general instructions for consuls were issued in 1846. Present consular practice is based upon revisions of these instructions.⁴⁴

Consular practice of the Italian cities during the Middle Ages was based almost entirely upon treaties. Modern Italian consular law is a development of the Sardinian system first issued in 1815 and replaced by the regulations of 1835. The present practice is governed by the laws of 1858 and 1866 with certain minor modifications.⁴⁵

The United States elected its first consul to France in 1780 while still governed by the Continental Congress. However, the first legislation upon the subject was enacted in 1792 and this act, with slight amendments, held until 1856. Subsequent changes were made by executive orders until the service was reorganized by the Act of 1906. In 1924 the diplomatic and consular services were consolidated and important changes were made by the law of 1931.

⁴¹ F. De Cussy, *Règlements consulaires des principaux états maritimes de l'Europe et de l'Amérique* (Paris et Leipzig, 1851), 149 ff.; or A. H. Feller and M. O. Hudson, *A Collection of the Diplomatic and Consular Laws and Regulations at Various Countries* (Washington, 1933), I, 513 ff.

⁴² Feller and Hudson, *op cit*, I, 854-885.

⁴³ *Ibid*, I, 547-573.

⁴⁴ *Ibid*, I, 167-218.

⁴⁵ *Ibid*, I, 685-717.

Consular Treaties of Today—Although national legislation has had some influence upon the development of consular law, consular practice today just as it did in the Middle Ages rests largely upon consular treaties and conventions. The world is bound by a close network of these agreements in which every phase of consular practice and immunity is covered. Even the smallest and most backward states have been anxious to regulate their commercial relations with their neighbors by means of consular conventions or general treaties of commerce. It should be noted that the vast majority of such treaties are bipartite in character. Some of these agreements are devoted entirely to consuls while others of a broader character such as treaties of commerce, navigation, peace, friendship and so forth usually contain provisions regarding consular privileges and immunities.

Afghanistan has signed a half dozen such agreements. Ethiopia only one less; even such recent additions to the family of nations as Albania, Iceland, Hejaz, the Irish Free State, and Iraq are bound by such treaties. Great Britain has signed about 120 treaties of this character with some 60 different states or principalities. France has entered into a still greater number of such engagements than Great Britain, and the United States follows close behind France. Since 1910 some ten multipartite conventions have come into force with provisions covering or including consular rights and duties. The present tendency towards reciprocity tariff treaties should increase the number and importance of such engagements.

To appreciate the vast extent of the consular system as it exists today let us note the number of consuls sent and received by the principal commercial nations. According to figures obtained from official sources as of 1931 Great Britain receives 1,605 consuls and sends 1,075. France comes second, receiving 1,566 and sending 851. The United States receives 1,435 and sends 870. Spain just crowds Italy out of fourth place, receiving 1,193 and sending 974, while Italy receives 1,039 and sends 1,008. The total number of consular officials sent and received by all the states of the world as compiled in 1931 amounted to 34,523.⁴⁶

The Codification of Consular Law—Various attempts have

⁴⁶ *Annuaire du corps diplomatique et consulaire* (Geneva, 1931).

been made to codify consular law and with perhaps a greater degree of success than has been attained in diplomatic law. Bluntschli in 1868, Field in 1876, and Fiore in 1890 prepared comprehensive codes covering the rights, powers, duties, and privileges of consuls.⁴⁷ The Institute of International Law in 1896 and the American Institute of International Law in 1925 worked out brief codes largely confined to the privileges and immunities of consuls. The Committee set up by the League of Nations to consider those subjects on international law which appeared ready for codification at the present time included the legal position and functions of consuls. The subcommittee which reported on this subject declared that the regulation of the legal status of consuls by international agreement was not only desirable but indispensable from every point of view. A brief code covering certain essential prerogatives and privileges was appended. The Inter-American Commission of Jurists meeting at Rio de Janeiro in 1927 prepared a rather complete draft code covering all phases of consular activity which was adopted as a convention at the Sixth Pan American Conference which met in Havana in January, 1928. Twenty of the republics of the Western Hemisphere signed this consular convention and eight had ratified it by July 1, 1935.

Perhaps the most elaborate code of consular procedure and practice is the one prepared by a Research Group in International Law directed by Manley O. Hudson, of the Harvard Law School. This carefully drawn code is the joint work of some fifteen American authorities in the field of international law and covers very adequately and systematically the legal position and functions of consuls.

From these various codes it is possible to settle perhaps the very thorny question regarding the legal position of consuls in international law. The consensus of opinion seems to be that while a consul is not a public minister and does not possess a representative character, nevertheless the consul must possess the legal status indispensable for the discharge of his duties. He must possess therefore as a minimum such immunities as cover the inviolability of consular archives and exemption from such re-

⁴⁷ J. C. Bluntschli, *Le droit international codifié*, 4th ed (Paris, 1884); D. D. Field, *Outlines of an International Code* (New York, 1876), 58-77; Pasquale Fiore, *International Law Codified* (New York, 1918).

strait as might interfere with the proper performance of official duties. It is to be hoped that such rights may soon be recognized universally as proper prerogatives for the adequate protection of consular representatives. Such recognition would be only a fitting acknowledgment of the invaluable assistance which the consular system has rendered to the development of commerce between nations.

CHAPTER III

THE CONTROL OF FOREIGN RELATIONS IN THE UNITED STATES

Before embarking upon a consideration of the machinery of international intercourse in the United States we must devote some attention to its control. In these days of ever increasing international problems the formulation of a sound foreign policy is just as important as the formulation of a successful domestic policy. The Marquis Curzon, an authority on the subject, has declared that "foreign affairs are really the most domestic of all our affairs, for it is in relation to foreign affairs that every man and woman in this country secures immunity from war, relief from the heavy burden of taxation, prosperity of trade and industry".

But to achieve a successful foreign policy it is not sufficient merely to formulate it. It is absolutely essential to have a well regulated system of control for the proper conduct of such a policy. In autocratic systems the control is simple since it is automatically vested in the head of the state. But in democracies where fear of absolutism always exists, numerous checks are imposed upon autocratic control of foreign relations by the head of the state. The result unfortunately is to make the conduct of foreign relations in a democracy both difficult and cumbersome. Perhaps in no country is this situation more evident than in the United States.

When first set up under the Articles of Confederation the government of the United States vested the control of foreign relations in a committee of the Congress. This was found to be so unsatisfactory that when the Constitution was formulated it was decided to give the control of foreign relations to the President but with very careful checks against possible abuse. He was made commander-in-chief of the army and navy but only Congress could declare war or appropriate money to wage it. The President could make treaties but two-thirds of the Senate had to approve

them. He could appoint ambassadors and ministers but the Senate must approve his choice. Nevertheless the President was vested with the executive power and history has shown that a strong president can to a considerable extent determine the foreign policy of the United States.

Presidential Formulation of Foreign Policy—The reason for the great power over foreign relations which is now vested in the hands of the President is due partly to the failure of the Constitution to assign the formulation of foreign policy to any one instrumentality of government. Some of the most important foreign policies which the United States has enunciated, such as the Monroe Doctrine and the so-called Doctrine of Isolation are essentially presidential policies. Since such policies are primarily political questions they are not subject to review by the courts. Furthermore, since the President has full executive power and command of the army and navy to enforce his decisions, the Congress has only indirect methods of control. It may express its opinion by resolution but the President can use his own discretion as to whether he will accept such advice. In his annual messages to the Congress the President regularly expresses his opinion upon the foreign policy to be pursued by the United States and unless such policy violates national or international law the President can usually make his policy effective.

The fundamental doctrine of American foreign policy, the doctrine that kept us out of the League of Nations, was the doctrine of isolation enunciated in his farewell address by President Washington and supported just as fervently by Presidents Adams and Jefferson who succeeded him. The fact that subsequent presidents have refused to follow this long-established policy when they regarded it inexpedient as, for example, President Theodore Roosevelt's action preceding and during the Conference of Algenciras is further evidence of the presidential power. When President Wilson logically and in accordance with the new position of the United States attempted to throw the doctrine overboard he only failed because of an unfortunate combination of political circumstances at home and the fact that his bitter personal enemy, Henry Cabot Lodge, was chairman of the Foreign Relations Committee of the Senate

The Monroe Doctrine, another cardinal foreign policy of the United States is essentially a presidential policy. It has been extended, amended, revised, reinterpreted, disregarded and renewed by subsequent presidents. It was not mentioned by President Lincoln during its contemptuous violation by the Maximilian expedition in Mexico. It could serve President Grant as a claim for an American isthmian canal. President Cleveland made it sound like a clarion call for American hegemony in the western world. The first President Roosevelt used it as a big stick policy to keep order in the Caribbean. President Wilson tried to make it a truly Pan-American policy. President Hoover reduced it to its original meaning. President Franklin Roosevelt has made it practically obsolete by his new commitments to the Latin American states.

Legislative Interference—The President it must be conceded does not possess this initiative in the formulation of foreign policy wholly free from the suggestions and advice of the legislative body. Both the Senate and the House of Representatives feel free at any time to offer gratuitous advice in the form of resolutions, and many examples might be cited. A Senate resolution of 1835 requested the President to negotiate treaties with other governments for the protection of companies attempting to construct an Isthmian Canal. A Senate resolution of 1888 asked President Cleveland to open negotiations with China regarding immigration. Perhaps the most famous Senate resolution was introduced in 1912 by Senator Lodge as a sort of corollary to the Monroe Doctrine. It attempted to prevent the sale of any territory in the western hemisphere so situated as to threaten the safety of the United States if occupied by a foreign state for naval or military purposes.¹

The House has been equally prolific with resolutions regarding foreign policy. It, too, attempted to support the Monroe Doctrine by declaring in reference to the Maximilian expedition into Mexico "that it does not accord with the policy of the United States to acknowledge a monarchical government erected on the ruins of any Republican government in America under the auspices of any European power".² In this case the Secretary of State in a

¹ For text see *American Journal of International Law*, VI, 937 (1912).

² *Congressional Globe*, XXXIV, 1408 (April 4, 1864).

note to the French minister repudiated this statement of policy as being wholly without the constitutional prerogatives of the House.

Presidential Responsibility—In this connection it should be noted that according to American constitutional law the President is legally responsible for the acts of the heads of the executive departments. Therefore any policy initiated by a Secretary of State is in reality a presidential policy. Consequently Secretary Hay's policy of the Open Door and Secretary Hughes' policy of limitation of armament and Secretary Hull's policy of tariff reciprocity owe their existence to presidential sanction. In conclusion it may be stated that the President possesses the initiative in the formulation of foreign policy and his success in achievement is limited only by his intelligence and his will.

It should be noted that upon certain occasions the presidential initiative has brought about unfortunate incidents. The famous indiscretion of President Harding during the Washington Arms Conference of 1922, when he gave a statement to the Japanese with regard to the island status of their country in direct violation of the stand taken by Secretary Hughes, is a well-remembered incident. The very unfortunate result of the Hoover-Laval conversations regarding the debts would never have arisen if the affair had been handled by trained diplomats who would have had accurate notes as to exactly what was said and an initialed memorandum as regards the decision reached.

The President as the chief executive of the United States is the only legitimate functionary to carry on negotiations with foreign states. Thomas Jefferson referred to the President as "the only channel of communication between the United States and foreign nations".³ John Marshall called him "the sole organ of the nation in its external relations, and its sole representative with foreign nations," and a report from the Foreign Relations Committee of the Senate asserted that "the executive is the sole mouthpiece of the nation in communication with foreign sovereignties".⁴ Of course, in this connection the President ordinarily acts through

³ J. B. Moore, *Digest of International Law* (Washington, 1906), IV, 680.

⁴ See Q. Wright, *The Control of American Foreign Relations* (New York, 1922), 21.

the Department of State. Except in cases of personal communications to foreign heads of state, usually of a ceremonial nature, all written communications to foreign governments are signed by the Secretary of State or American foreign diplomatic representatives. Here again the President's position in the direction of foreign policy is paramount, for the action of the President in such matters of policy is binding on the Congress, the courts and all public officials both federal and state.

The Appointment of Foreign Representatives—Among the specific powers conferred by the Constitution upon the President is the appointment of ambassadors and other public ministers and consuls.⁶ Such appointments, however, are subject to the approval of a majority of the Senate. Due to the fact that Senatorial approval is required a certain amount of political pressure is sometimes put upon the President with reference to choice diplomatic posts. The posts of London and Paris are the two most important in the American foreign service and there is always keen competition for these positions. The result is that these posts are always filled by political appointees. The position of the President in making these appointments is a most unenviable one. There are so many outstanding supporters of the party and so few adequate awards available. It is a well known fact that George Harvey, who perhaps did more than any other Democrat to bring about the election of Woodrow Wilson, became his bitterest enemy when refused the position of ambassador to the Court of St. James's. He later threw his influence to the election of President Harding, a Republican, and achieved his desire of becoming our ambassador to London. Incidentally, his reputation was not enhanced by his service.

•The United States has never adopted the policy of limiting appointments in the diplomatic service to career men and it is almost an unwritten law that upon the inauguration of a new president every American ambassador and minister shall submit his resignation to the new president. The tendency in recent years is to refuse to accept the resignations of the career men in the service and to fill a good share of the posts of minister and a few ambassadorial posts with experienced men.

⁶ Art II, Sect I

On the whole the Senate is inclined to grant approval of diplomatic appointments in a purely routine fashion. There is no doubt that influential senators are often able to obtain certain diplomatic posts for their protégés. It is also true that a senator who fails of reelection is often taken care of by being given a diplomatic appointment. But such procedure is to be expected so long as the diplomatic service is not placed wholly upon a career basis.

Congressional Limitations on the Appointive Power—The Congress has from time to time placed certain limitations upon the appointing power of the President but it is a moot question as to how far the President is bound by such legislation. For example, the law of March 1, 1855, attempted to limit the President's power to the appointment of American citizens only as envoys extraordinary and ministers plenipotentiary. It also stated to which countries they were to be sent and the specific annual compensation for each. Attorney General Cushing construed the act to be merely recommendatory and not mandatory. He declared that in his judgment the President might employ a person if the public interest required it whether he were a citizen or not. Nor could "Congress by law constitutionally require the President to make removals or appointments of public ministers on a given day, or to make such appointments of a prescribed rank or to make or not make them at this or that place".⁶

The Congress, however, continued to make legislation controlling diplomatic appointments. It was made impossible to appoint aliens as either diplomatic or consular officers by refusing compensation to such officers not citizens of the United States. Inasmuch as the President had never utilized his specifically granted powers to appoint ambassadors, the Congress by an Act of March 3, 1893, making appropriations for the Diplomatic and Consular Service, authorized him in his discretion to appoint the same class of diplomatic agent as any foreign government appointed to the United States. The Act provided for the Congress of Vienna classification: ambassador, envoy extraordinary, minister plenipotentiary, minister resident and chargé d'affaires. It also added the position of special envoy. The long delay on the part of Ameri-

⁶ 7 *Opinions U. S. Attorney General*, 214

can presidents in making ambassadorial appointments was due primarily to the popular opposition in a democracy to the ceremonial inherent in such positions.

An even more restrictive act was passed by the Congress in 1909 which stated that "hereafter no new ambassadorship shall be created unless the same shall be provided for by an act of Congress". In accordance with this mandate ambassadorships have been established by special authorization as follows: Spain in 1913, Argentina and Chile in 1914, Belgium in 1919 and Cuba in 1923. Here again, however, this act of Congress has been construed as merely recommendatory, for President Wilson raised the post at Lima, Peru, to an ambassadorship without the authorization of Congress.

The greatest limitations upon the President's appointive power have been taken by presidential initiative and consent. In order to establish a career service based entirely upon the merit system a series of Congressional statutes have been passed placing all positions below the rank of minister in the diplomatic and consular services upon a permanent civil service basis. At the present time all consular officers and all diplomatic officers under the rank of minister are appointed as a result of competitive examination to a position of foreign service officer and they are promoted strictly upon a merit basis. The Act of February 23, 1931, provides that the Secretary of State may recommend promotions from foreign service officers to the position of minister and both Presidents Hoover and Franklin Roosevelt have availed themselves of this provision. As recent examples, Norman Armour, formerly counselor of the embassy in Paris, was appointed Minister to Haiti and later to Canada and George Messersmith, formerly consul-general at Berlin, was named Minister to Austria.

Presidential Agents—Another interesting example of the President's appointive power is the practice of sending special presidential agents abroad without consulting the Senate in any way. These diplomatic or secret agents are not strictly officers of the United States nor public ministers, but they are usually given the same privileges and immunities by foreign governments as are accorded to public ministers. Such agents are usually sent for secret negotiations and are paid out of a secret contingent fund of

the President, for the expenditure of which he is not required to give an accounting.

President Washington began this practice almost immediately after the ratification of the Constitution when he sent Gouverneur Morris, then in Paris, as his special agent to London to "converse with His Britannic Majesty's Ministers as to certain matters affecting the relations between the two countries".⁷ A report of the Senate Foreign Relations Committee in 1888 stated that some 438 persons had been appointed or recognized by the President without the advice or consent of the Senate or the express authority of Congress to conduct negotiations and conclude treaties.⁸

As outstanding examples of such procedure we might note the mission of Commodore Perry in 1852 to conclude a treaty with Japan, the missions to the Hague Conferences of 1899 and 1907, the mission of Colonel House to Germany in 1916 and France in 1917, and the entire peace commission headed by President Wilson to conclude a treaty of peace with Germany in 1919. President Hoover after his election but before his inauguration constituted himself a sort of special agent on a good will trip to Latin America. President Franklin Roosevelt sent William C. Bullitt as his special agent to the Soviet Union in advance of its recognition and Norman Davis has been serving as presidential agent with the rank of ambassador as America's chief representative to the disarmament conference.

The Senate has protested many times and vigorously against this practice. In 1882 in consenting to the ratification of a treaty with Korea the Senate resolved that "it does not admit or acquiesce in any right or constitutional power in the President to authorize or empower any person to negotiate treaties or carry on diplomatic negotiations with any foreign power unless such person shall have been appointed for such purpose or clothed with such power by and with the consent of the Senate. . . ."⁹

The Congress also has attempted to restrict the President's power. In a clause in the deficiency bill of March 4, 1913, the Congress declared that "Hereafter the executive shall not extend or accept any invitation to participate in any international congress,

⁷ Wright, *op. cit.*, 328.

⁸ *Senate Doc. No. 231, 56th Cong., 2nd sess., Part 8, 337-362.*

⁹ Malloy, *Treaties*, I, 340.

conference or like event without first having specific authority of law to do so.”¹⁰ Such limitation is an unconstitutional infringement upon the President’s control of foreign relations and as such has been violated with impunity by subsequent presidents.

Power to Receive Foreign Representatives—Correlative with the President’s power to appoint and send diplomatic representatives is the power to receive ambassadors and other public ministers. The vital difference is that in the case of reception of foreign envoys the President would seem to have absolute power untrammelled by any legislative control. This unrestricted power of receiving foreign public officers imposes a great responsibility upon the President because through it the President has the power of recognizing new foreign states and governments. A premature recognition of a belligerent or revolutionary government by the President might well be regarded as a just cause of war by the parent state. In this way the President could plunge the country into war without any check on the part of Congress.

This power of recognition was first used by President Washington in 1793 when by receiving Citizen Genêt he recognized the new revolutionary government of France. In our relations with Latin America the President has used this power of recognition very often as a means of exerting pressure upon various Latin American states. In the case of Central American republics an effort has been made to prevent revolutions by refusal to recognize governments which have come into power through unconstitutional means. In the case of Mexico the United States was able to cause the downfall of the Huerta government and to impose important reservations regarding the Mexican constitution upon the government of President Obregón. The government of Dr. Grau San Martín in Cuba which was overthrown in January, 1934, claimed that its downfall was due to the refusal of President Roosevelt to accord recognition. The recent recognition of the Soviet government by President Roosevelt was made upon his own initiative and was in direct opposition to the policy followed by his two predecessors, Presidents Coolidge and Hoover.

The power of recognition goes farther than the recognition of new states and new governments. Ever since President Washing-

¹⁰ 37 U. S. Statutes at Large, 913.

ton issued the first proclamation of neutrality in 1793 Presidents have on their own initiative recognized a state of war as existing by proclamations of neutrality. The United States through a proclamation by President Franklin D. Roosevelt recognized a state of war existing between Italy and Ethiopia in 1935 even before the League of Nations had so decreed. The President has also assumed the power to determine by the character of his proclamation whether a status of belligerency or insurgency exists. It naturally follows that the President can determine when such warlike conditions end by proclaiming the termination of American neutrality. Finally, through diplomatic correspondence carried on by the Department of State the President has recognized the establishment of protectorates and the acquisition of territory.

Here, again, the question has arisen as to the exclusiveness of the President's power. Since premature recognition of a revolutionary government as a belligerent or the recognition of a state as independent before acceptance of such a change in the status quo by the parent country is a just cause for war, should not the Congress which alone can declare war participate in the attendant negotiations? In fact, upon certain occasions as, for example, in the case of the recognition of Texas, which ultimately brought about war with Mexico the President did consult with and ask the cooperation of Congress. Nevertheless, the consensus of opinion as expressed by Secretaries of State, by the courts and by the Senate itself concedes that the power of recognition is vested solely in the hands of the executive.¹¹

War Powers of the President—The powers of the President as commander-in-chief of the army and navy of the United States are another important element in his control of foreign relations. He can move the forces of the United States as he sees fit even though such disposition may provoke an outbreak of hostilities. It is generally conceded that President Polk's order sending American forces to the east bank of the Rio Grande into territory claimed by Mexico was the spark which touched off the war with Mexico. It has also been argued that if President McKinley had not sent the battleship *Maine* to Havana harbor the war with Spain might have been averted.

¹¹ Moore, *Digest, op. cit.*, I, 244-247.

But since the President is expected to use the military and naval forces of the United States to defend American territory and to protect the rights of Americans abroad and on the high seas he must use his own discretion as to how these objects may best be accomplished. Professor Borchard in his scholarly study on the *Diplomatic Protection of Citizens Abroad* gives it as his opinion that "the Executive has unlimited authority to use the armed forces of the United States for protective purposes abroad in any manner and on any occasion he considers expedient".¹² President Taft has declared "the President is made Commander-in-Chief of the Army and Navy by the Constitution, evidently for the purpose of enabling him to defend the country against invasion, to suppress insurrection and to take care that the laws be faithfully executed. If Congress were to attempt to prevent his use of the army for any of these purposes, the action would be void."¹³

An outstanding use of the President's military power which has been much criticized was the despatch by President Theodore Roosevelt of an American cruiser into Colombian waters with orders to keep the Panamanian railway open even though it necessitated prohibiting Colombian troops from disembarking into their own territory. The result was the success of the Panama revolution and the construction of the Panama canal by the United States. A more recent but less successful example of the use of the President's military power was the sending of American forces into Mexico to capture the bandit Villa who had crossed into American territory and murdered a number of American citizens.

The Treaty-making Power—Finally, the last and perhaps most important power possessed by the President in the control of foreign affairs is based upon the constitutional provision which states: "He shall have power by and with the advice and consent of the Senate to make treaties provided two-thirds of the Senators present concur."¹⁴ Inasmuch as treaties have become the fundamental basis of international law, jurisdiction over the treaty making power is essential to the control of foreign relations. It is in this field that the President and the Senate have had some of their

¹² E. M. Borchard, *The Diplomatic Protection of Citizens Abroad* (New York, 1915), 452.

¹³ W. H. Taft, *Our Chief Magistrate* (New York, 1925), 128-129.

¹⁴ Art II, Sect. 2, clause 2

greatest struggles and unfortunately for the foreign policy of the nation the Senate is too often victorious.

James Bryce in his remarkable interpretation of the American government has cogently expressed this situation: "The Senate has been mainly guided by its Foreign Relations Committee, a fluctuating body, usually containing a few able men among others who know little or anything outside their own country and may regard the interests of their own state rather than those of the Union. Jealous of its powers and often impelled by party motives the Senate has frequently checked the President's action, sometimes with unfortunate results" ¹⁵

When the constitutional fathers provided for a joint control of the treaty making power they had in mind a small body of some twenty-six eminent and intelligent men in the Senate (indirectly elected and therefore not subject to popular prejudice) who would confer in a judicial fashion with the President as to the best interests of the country in entering into engagements with the rest of the world. Hamilton pointed out in the *Federalist* the reasons why the lower house could not share this power because "Accurate and comprehensive knowledge of foreign politics; a steady and systematic adherence to the same views; . . . decision, secrecy and dispatch are incompatible with the genius of a body so various and so numerous." ¹⁶ Never was it visualized at that time that the Senate would grow into a body of ninety-six members directly elected from the forty-eight states, an unwieldy advisory group which would often permit politics to take precedence over the general interests of the country as a whole.

Even at the beginning, however, the procedure of consulting the Senate in the actual formulation of a treaty was found to be a failure. The story is told of President Washington at an early period of his administration having gone to the Senate with a project of a treaty to be negotiated and having been present at their deliberations upon it. "They debated it and proposed alterations so that when Washington left the Senate Chamber he said he would be damned if he ever went there again. And ever since that time treaties have been negotiated by the Executive

¹⁵ James Bryce, *Modern Democracies*, 2 vols (New York, 1927), II, 373.

¹⁶ *The Federalist*, P. L. Ford, ed (New York, 1898), 502.

before submitting them to the consideration of the Senate.”¹⁷

John Hay when Secretary of State had a number of unfortunate experiences with the Senate's attitude towards the approval of treaties and became very pessimistic about it.¹⁸ “A treaty entering the Senate”, he wrote, “is like a bull going into the arena; no one can say just how or when the final blow will fall—but one thing is certain, it will never leave the arena alive.”¹⁸ President Wilson had one of the bitterest struggles with the Senate in his effort to obtain the ratification of the Treaty of Versailles. There is little doubt but that a small group of Senators led by Henry Cabot Lodge fought the treaty and prevented its adoption partly through personal antagonism to President Wilson and partly through a narrow partisanship spirit. In a recent study made by the Department of State it was estimated that in the period between 1789 and 1931 the Senate caused the failure of some 160 treaties, either by outright rejection, or by amending them so as to cause their rejection, or by not taking final action.¹⁹

In the negotiation of a treaty the President has a free hand, although it is still argued by some authorities that the Senate should be consulted even from the beginning. Nevertheless the practice has become established for the President to carry on all the negotiations and sign the treaty before submitting it to the Senate for its approval. On one occasion when President Jackson sought the advice of the Senate on an Indian treaty prior to signature he apologized for departing from a long and unbroken usage in similar cases.²⁰

On a number of occasions, however, the Secretary of State has consulted with Senators individually and informally, particularly members of the Foreign Relations Committee, as to their attitude towards a possible treaty. On other occasions Senators have been chosen on the commission to conclude the treaty under consideration, thus making them to a certain extent responsible in advance for its acceptance by their fellow members. President Wilson might have had greater success if he had given the Senate some repre-

¹⁷ J. Q. Adams, *Memoirs*, 12 vols (Philadelphia, 1874-77), VI, 427.

¹⁸ W. R. Thayer, *Life of John Hay* (New York, 1915), II, 293.

¹⁹ *Miscellaneous Publications of the Department of State*, No. 382 (Washington, 1932).

²⁰ Wright, *op. cit.*, 250

sentation at the Versailles Conference. President Harding was careful to name Senators from both parties to conclude the Washington Arms Agreements.

An interesting question arises when the treaty requires the appropriation of money to carry out its provisions. Since Congress has the sole right to appropriate money, is it bound by a treaty made without its knowledge or consent? This is a much disputed point but in actual practice Congress has never yet failed to appropriate the necessary funds to make a treaty effective. However, when President Johnson made a treaty in 1868 with Denmark for the purchase of the Danish West Indies for \$7,500,000 the Senate refused to ratify it because of personal and political hostility towards the President. The result was that when the United States finally obtained the islands in 1916 they had to pay more than three times as much, namely, \$25,000,000. Petty partisan politics sometimes comes very dear.

On certain occasions the Senate has refused to act upon treaties which successive presidents have earnestly desired to make a part of the law of the land. A notorious example of such flouting of executive purpose occurred with regard to the Hay-Quesada treaty signed with Cuba in 1904 relinquishing all American claim to the Isle of Pines. Although every subsequent American president favored its acceptance the Senate, hearkening to the outcry of the American landowners on the island, was not prevailed upon to pass it until 1925.

The delay in the ratification of treaties due to dilatory action by the Senate is such that in its instructions to its diplomatic officers the government of the United States declares that as regards ratification of treaties it is preferable that the exchange of ratifications shall be effected "as soon as possible" rather than within a specified time.

Although the Senate may reject a treaty outright the more common procedure is for it to qualify the treaty with amendments, reservations or interpretations. In some cases the amendments or reservations are of such character as to nullify completely the proposed aim of the treaty. In such a case the President is at liberty to withdraw the treaty from any further action. President Taft was forced to withdraw a number of arbitration treaties which he had made when he found that the Senate was not dis-

posed to accept them without restrictive amendments. President Taft resented bitterly the Senate's attitude and later explained his action by declaring that the Senate had "truncated them and amended them and qualified them in such a way that their own father could not recognize them. . . . So I put them on the shelf and let the dust accumulate on them in the hope that the Senators might change their minds, or that the people might change the Senate; instead of which they changed me." ²¹

Sometimes the Senate's amendments are not acceptable to the other party which refuses to accept the treaty in its amended form. Great Britain refused to accept a convention signed in 1803 for settling the northern boundaries of the United States because the Senate had expunged one article. A convention for the suppression of the slave trade signed in 1824 was also refused by Great Britain due to the conditions imposed by the Senate. ²²

At the present time the custom of the Senate seems rather to make reservations instead of amendments. Reservations are distinguished from amendments in that they involve no formal or textual changes in the treaty. The United States is still outside of the World Court today because of five reservations appended by the Senate of the United States to the protocol of adhesion. Four of them were accepted unconditionally by the other signatory powers, and a modified form of the fifth proposed by Elihu Root was subsequently approved. However, although on January 9, 1935, the Senate Committee on Foreign Relations by a vote of 14 to 7 recommended that the Senate advise and consent to the adherence of the United States, and President Roosevelt threw his influence strongly behind the proposal, the Senate refused by a vote of 52 to 36. Jingoistic nationalism aroused by the Hearst press and misleading radio appeals were sufficient to stampee a small group of spineless Senators.

There has never been complete agreement as to the extent of the treaty-making power in the United States. According to the dicta of the courts, "the treaty making power in the United States extends to all proper subjects of negotiation between our Government and the governments of other nations". ²³ It is generally con-

²¹ J. M. Mathews, *American Foreign Relations* (New York, 1928), 197.

²² Moore, *Digest*, V, 199, 200.

²³ *Geofroy v Riggs* (1890) 133 U. S. 258, 267.

ceded that the President may make a treaty which violates any law passed by Congress but he may not make a treaty in violation of the constitution.

Executive Agreements—There is one possible procedure eliminating Senatorial interference which is sometimes available to the President in dealing with a foreign state. Since the constitution prescribes that treaties shall receive the consent of the Senate, but does not define the term, and later refers to agreements or compacts which the states may enter into with the consent of Congress, the President has assumed the power of making executive agreements which are not submitted to the Senate for its approval. Sometimes such agreements are under authority expressly delegated to the President by Congress but sometimes he may make such agreements in direct violation of the expressed will of the Senate.

Perhaps the most famous of such agreements was the one made by President Theodore Roosevelt in 1905 for administering the customs collection in the Dominican Republic. Although the President sent two messages to the Senate urging immediate approval of the protocol, the Senate adjourned without action. President Roosevelt thereupon decided to carry out the arrangement as an executive agreement. Santo Domingo accepted the *modus vivendi* and President Roosevelt in his next message to Congress declared the arrangement would last until the Senate acted upon the treaty. The Senate did not take kindly to this alleged executive usurpation and Senator Tillman violently arraigned the President for his unconstitutional abuse of authority. But the agreement worked and the Senate finally but grudgingly gave its consent.

Another famous agreement was the so-called "Gentleman's Agreement" with Japan regarding Japanese immigration. This was merely a declaration of policy between the two governments but it was faithfully adhered to until abrogated in a most arbitrary and ungentlemanly fashion by the Immigration Act of 1924. The Root-Takahira and the Lansing-Ishii agreements with Japan regarding American policy in the Far East are also well known examples of executive agreements.

The arrangement between the United States and Great Britain

which provides for the non-fortification of the 3,000 miles of frontier between the United States and Canada has never been put into the form of a formal treaty. The peace protocol with Spain which ended the war of 1898 and provided for the evacuation of Porto Rico and its subsequent cession to the United States was an executive agreement entered into by the President as the commander-in-chief of the army.

The so-called Hull reciprocal trade agreements, although not subject to the Senate's approval, are not strictly executive agreements inasmuch as an act of Congress specifically placed in the hands of the President the power to negotiate such agreements and at the same time limited his powers and the duration of the grant of power.

Such examples of presidential powers could be multiplied but illustration enough has been given to show that in the American system of government the control of foreign relations is largely within the President's hands. With his appointive power, his treaty-making power, his war powers, and his power to dictate policy he can direct the foreign policy of the United States into the channel wherein he wishes it to flow. Since the President is the only man in the American system who represents the United States as a whole, the power is well placed. Even President Harding who had served longer as a Senator than as President dared to tell the Senate that from his own experience he at last realized that "to the executive comes the closer view of world relationship". There have been many occasions when a majority of the American people have wished that the President were the sole director of the foreign policy of their country.

CHAPTER IV

THE HISTORICAL DEVELOPMENT OF THE DEPARTMENT OF STATE

In taking up the organization of the machinery of international intercourse it is necessary first to consider the agency which directs the foreign relations of a state. This administrative and policy-determining agency is¹ usually called the Foreign Office or the Ministry of Foreign Affairs. In the United States, for reasons which will be given later, it is called the Department of State.

Preconstitutional Development of the Department of State—The State Department of the United States may claim an interesting, if limited ancestry. Its origin can be traced to the Committee of Secret Correspondence chosen by the Continental Congress in 1755 with the illustrious Benjamin Franklin as its chairman. This committee distinguished itself by undertaking the negotiations which subsequently led to the very advantageous alliance with France of 1778. The Committee's name was changed in 1777 to the Committee for Foreign Affairs and under this title it functioned intermittently and rather ineffectually until 1781. At that time it was thought that "the extent and rising power of these United States entitles them to a place among the great potentates of Europe", and a plan of organization was submitted to the Congress on January 10, 1781.¹

The plan began with establishing an office "for the department of foreign affairs to be kept always in the place where Congress shall reside", and it provided for "a secretary for the despatch of business of the said office, to be styled secretary for foreign affairs". After considerable debate the office was established, but the first secretary, Robert R. Livingston of New York, was not selected until August 10 of the same year. The department as originally organized consisted of the secretary with a salary of \$4,000 a year, a first undersecretary at \$800, and a second under-

¹ *Journals of the Continental Congress*, Library of Congress ed., XIX, 43.

secretary at \$700, a clerk and translator at \$500 and another clerk at \$500.²

An act enlarging the secretary's powers was passed in 1782, but by the end of the year, Livingston, finding that his expenses exceeded his salary by several thousand dollars and preferring to be Chancellor of the state of New York, resigned. He retained his position for over six months until Congress could choose a successor, but when they failed to do so the office was vacant for over a year until John Jay was elected and took over the duties in December, 1784. Jay carried on the work so ably begun by Livingston until the government under the Articles of Confederation came to an end.

Establishment of the Department of State—The new Constitution did not specifically provide for executive departments but it clearly took them for granted. The Congress elected according to its terms, therefore, did not hesitate to set up executive departments by its statutory authority. The first executive department to be established was named the Department of Foreign Affairs and the Congressional Act creating it became law by the signature of President Washington July 27, 1789.³ A little later in the same year when it was found that no provision had been made in the departments of Foreign Affairs, Finance, or War to keep the records and seals of the United States or to publish the acts of Congress, it was decided to entrust those duties to the Department of Foreign Affairs. To make the name of the department include its new domestic functions, the law extending its jurisdiction (the act of September 15, 1789)⁴ changed its name to that of the Department of State, and the principal officer was to be known as the Secretary of State. John Jay, appointed Chief Justice of the Supreme Court, had carried over the functions of the foreign office merely until his successor could be appointed and inducted into office. Thomas Jefferson, then on a mission to France, was named by the President as the first Secretary of State and he accepted and entered upon his new duties late in February, 1790.

² For an excellent account of the historical development of the Department see Gaillard Hunt, *The Department of State of the United States* (New Haven, 1914). See also W. H. Michael, *History of the Department of State of the United States* (Washington, 1901) and *The Department of State of the United States*, rev. ed. (Washington, 1933).

³ 1 U. S. Statutes at Large, 28. ⁴ 1 U. S. Statutes at Large, 68.

Early Functions and Prerogatives—Although the Department of State was primarily the department to advise with the president in the conduct of foreign affairs, it was also made the repository of all domestic functions which could not properly be assigned to the Departments of Finance or War. In fact, Jefferson described the Department as embracing the whole domestic administration (war and finance excepted). For example, the Secretary of State was made custodian of the laws, the records and the Seal of the United States. It was his duty to promulgate the laws and resolutions of Congress; subsequently he was authorized to promulgate and publish the treaties to which the United States is a party and amendments to the Constitution. President Washington not only referred to the new department all correspondence within its jurisdiction but also copies of most of his own letters. The Department regularly served as the medium of correspondence between the President and the governors of the states.

An Act of Congress of March 1, 1792, provided that in case the offices of President and Vice President should both be vacant, the Secretary of State should notify the governors to choose electors within a specified time, but the Act of January 19, 1886, vested the succession in case of death, removal, resignation or inability of both President and Vice President, in the members of the Cabinet successively beginning with the Secretary of State. Such a situation, however, has never yet arisen. Nevertheless, this law has clearly established the primacy of the Department of State over the other departments and provides for an orderly succession to the presidency.

A number of duties of a domestic character which were assigned to the Department of State shortly after its organization have passed out of its jurisdiction with the establishment of other departments.⁵ By acts of Congress dated April 10, 1790, and February 21, 1793, the State Department was charged with the issuance of patents and this work remained under its jurisdiction until the Department of Interior was established in 1849 and the patent business assigned to it. Copyrights were also placed under the jurisdiction of the State Department insofar as it served as a repository for all maps, charts, books, engraved prints and musical

⁵ See Hunt, *op cit*, Chap VI, for a detailed account.

compositions whose titles had been deposited in the clerks' offices of the various United States District Courts. These publications were transferred in 1859 to the Department of Interior and in 1870 to the Library of Congress.

The first taking of the census was undertaken by the federal marshals but the publication of the returns was placed under the supervision of the Secretary of State. The Department continued to exercise this function until the work was transferred by Congress in 1850 to the Department of Interior. It was in the same year that all petitions for executive pardons which up until this time had been received by the Secretary of State were transferred to the office of the Attorney General. The State Department continued, however, to act in an administrative capacity for the Department of Justice until 1893.

The direction of territorial affairs was also given to the Department of State until the Act of March 1, 1873, transferred all such duties to the Secretary of the Interior. From 1796 to 1812 the Secretary of State was required to sign land patents and record them but this function was taken over by the General Land Office in the Treasury Department.

Other temporary duties of the Secretary of State which lasted for brief periods were: management of the mint, from 1792 to 1799; serving as the transmitting agency for sending of quarterly returns of ships' manifests from the collectors of the districts to the Congress regarding impressments of American seamen from 1799 to 1812; control of the immigration service from 1846 to 1868; publication of the annual volume known as *Commercial Relations of the United States* from 1856 to 1903, and the issuance of letters of marque and reprisal from 1798 to 1863. It should be noted, however, that no such letters have been issued since 1815.

As Jefferson organized the Department in the first year of his incumbency, it consisted of one chief clerk, three ordinary clerks and a French translator. After ten years of service the Department in 1800 consisted of a total force of ten men including the Secretary.⁶ In 1820 the personnel of the Department had increased to fifteen as follows: the Secretary, the Chief Clerk, ten clerks, two messengers and an assistant.⁷

⁶ Hunt, *op cit.*, 191.

⁷ *Ibid*, 203

Reorganization of the Department under Secretary McLane—

The first systematic reorganization of the Department into subdivisions seems to have occurred under Secretary McLane in 1833.⁸ According to his order the Department was organized as follows. The Chief Clerk, whose duties were those of an undersecretary of state was to exercise direction over the bureaus and see to the distribution of all correspondence. The Diplomatic Bureau attended to notes and instructions, the preparation of letters of credence and treaties, the reception, registration and filing of despatches. The Consular Bureau had charge of all matters pertaining to commercial and kindred matters. The Home Bureau filed and registered domestic correspondence, authenticated certificates under the Department seal, kept the registers of seamen and records of the arrivals of passengers from foreign ports. The Bureau of Archives, Laws and Commissions was charged with the keeping of archives, the preparation and recording of commissions, the publication and distribution of laws, messages of the President and reports of heads of departments. The Bureau of Pardons and Remissions and the Bureau of Copyrights and of the Care of Library performed the functions indicated and in addition collected the statutes of the different states. The Disbursing and Superintending Bureau made purchases, kept accounts, paid appropriations and acted as custodian of the departmental seal and the seal of the United States. The Translating and Miscellaneous Bureau did all translating, recorded all communications, made out and recorded passports, and filed miscellaneous letters. Two clerks in the Secretary's office aided in copying and any other duties required and one other extra clerk assisted in the Bureau of Archives.

*The Reorganization under Secretary Fish—*This arrangement continued with a few changes introduced by subsequent secretaries of state⁹ until 1870, when Hamilton Fish effected a new and important reorganization. The only noteworthy increases during this intervening period were two assistant secretaries of state appointed pursuant to the Acts of March 3, 1853, and July 25, 1866, and a clerk to examine claims authorized by the Act of August 12, 1848.

One of the important changes put into effect by Secretary Fish was the establishment of the first geographical bureaus. He set up

⁸ Hunt, *op. cit.*, 204-206.

⁹ The Departmental order of October 31, 1874, issued by Secretary Fish, enlarged the Home Bureau and made a slight redistribution of certain functions.

a First Diplomatic Bureau charged with the diplomatic correspondence with Western European states, China and Japan. The Second Diplomatic Bureau was to have charge of the diplomatic correspondence with the Near Eastern powers, Russia, the Latin American powers, Liberia and the Hawaiian Islands. In addition, a First Consular Bureau and a Second Consular Bureau were set up, corresponding to the first and second diplomatic bureaus. Secretary Fish also made the first definite assignment of duties to the assistant secretaries of state—the first assistant secretary being given the First Diplomatic Bureau and the First Consular Bureau and the Second assistant secretary the second bureaus.

The Department of State under the reorganization by Secretary Fish also possessed the following administrative divisions: the Chief Clerk's Bureau, charged with the archives and rolls, distribution of mail and indexing of records; the Bureau of Accounts, responsible for disbursements, and custodian of the Department's buildings and property, the Statistical Bureau, really the librarian in charge of books and pamphlets and assigned to prepare commercial reports; the Bureau of Pardons and Commissions, responsible for the preparation of commissions and warrants of pardon and application for positions; the Passport Bureau authorized to issue and record passports; the Bureau of Domestic Records, charged with miscellaneous correspondence other than that of a diplomatic or consular nature; a Translator, an Examiner of Claims, and a Telegraph Operator. There were also a certain number of unassigned clerks under the direction of the Chief Clerk.

Development from 1870 to the World War—The growth of the Department from 1870 until the World War was slow and normal.¹⁰ An Act of March 3, 1873, for the first time recognized the bureaus by law and included a new bureau called Indexes and Archives. The keeper of the archives remained chief of the Bureau of Indexes and Archives until the department order of February 4, 1931, changed its name to Division of Communications and Records.

By the Act of June 20, 1874,¹¹ a third assistant secretary was

¹⁰ For a detailed picture of the organization of the Department in 1887 see *Rules and Regulations of the Department of State, Senate Document # 359, 59th Congress, 2nd session, p. 24*.

¹¹ The legislative, executive and judicial appropriations act of June 20, 1874, was of great importance since it permitted the Secretary of State to prescribe duties for all employees of the Department.

authorized and the law officer or examiner of claims was to serve as Solicitor for the Department of State but still remain under the jurisdiction of the Department of Justice. This arrangement continued until the law of February 23, 1931, abolished the office of solicitor and established in its place the Office of Legal Adviser wholly within the Department of State.

The Bureau of Statistics gradually became more and more engaged with the preparation of commercial reports and in recognition of this fact and in accordance with the Act of February 20, 1897, its name was changed to the Bureau of Foreign and Domestic Commerce. It retained this title until 1903 when it was transferred to the newly established Department of Commerce and Labor. However, the Act of February 14, 1903, made it the duty of consular officers under the direction of the Secretary of State to gather and report useful and material information in regard to foreign and domestic commerce. To coördinate these activities both at home and abroad the Act further provided for a chief of bureau and the necessary assistants. Pursuant to this legislative order, Secretary of State John Hay, by departmental order of May 28, 1903, established the Bureau of Trade Relations to take the place of what had been the Bureau of Foreign and Domestic Commerce. The Bureau was also given general charge of compiling commercial and industrial information for the Department's use in the consideration of questions arising in the foreign intercourse of the United States, particularly foreign tariffs affecting American commerce. By an order under date of September 12, 1912, the name of the Bureau was changed to Office of the Foreign Trade Adviser. It remained so designated until an order dated December 20, 1921, changed its name to Office of the Economic Adviser.

Another slight reorganization in the administration of commercial work took place in 1921 when Secretary Hughes by a departmental order dated June 8 transferred that section of the Office of the Foreign Trade Adviser dealing with diplomatic and consular reports to the Office of the Director of the Consular Service where it was designated in the register of that year as the Consular Commercial Office. When in 1924 the Office of the Director of the Consular Service became that of Assistant Secretary, the Consular Commercial Office was retained and is still maintained under Mr. Carr's direct jurisdiction.

In 1907 at the suggestion of Gaillard Hunt, then chief of the Passport Bureau, the name of this bureau was changed to Bureau of Citizenship by an order of Secretary of State Elihu Root dated May 31, 1907. The reason for the change was the extension of the duties of this bureau to include all communications coming to the Department pertaining to citizenship and protection abroad.¹² The Bureau of Citizenship became the Division of Passport Control by an order dated August 13, 1918, and it was again renamed Passport Division by Departmental order of January 16, 1926.

Establishment of the Geographical Divisions—Undoubtedly the most important reorganization of the Department preceding the World War was that instituted by Secretary of State Philander C. Knox in 1909-1910. Mr. Huntington Wilson, who had been transferred from the position of Secretary of Embassy in Japan to that of Third Assistant Secretary of State on June 22, 1906, submitted to Secretary of State Elihu Root a comprehensive plan for the reorganization of the Department of State on regional lines. Because of the technical character of Far Eastern questions and also to test the value of Mr. Wilson's plan Secretary Root on March 20, 1908, established a Division of Far Eastern Affairs and appointed Mr. William Phillips as its chief under the supervision of the Third Assistant Secretary, Mr. Wilson. The regional plan was so successful that Secretary Root favored its further development.

When Mr. Knox became Secretary of State under President Taft in 1909, he obtained from Congress by the Act of August 5, 1909, a special appropriation of \$100,000 to improve the organization of the Department of State. He thereupon persuaded Mr. Huntington Wilson to relinquish his appointment as Minister to Argentina in order to put into effect the fundamental principles of his regional plan.

Pursuant to the act of Congress of August 5, 1909, carrying out this policy, the political correspondence of the Department was divided in accordance with geographical lines. The Divisions of Latin-American Affairs, Western European Affairs and Near Eastern Affairs were established by departmental orders of November 19, 1909, and December 13, 1909. The Division of Far Eastern Affairs, already functioning, was given more specific

¹² Hunt, *op. cit.*, 240-242.

jurisdiction by the departmental order of September 23, 1910. These changes were sanctioned by the appropriation act of June 17, 1910.

The administrative management of the consular service which had under Secretary Root been transferred from the Third Assistant Secretary of State to the Chief Clerk of the Department was for purpose of more intensive direction vested in a new office by Secretary Knox and designated as Director of the Consular Service. Mr. Wilbur J. Carr was appointed to this position.

One other new division was created at this time in accordance with the diplomatic and consular appropriation act of March 2, 1909. It was named the Division of Information and its function was to distribute information among the diplomatic missions. It was established by the departmental order of July 28, 1909, and was assigned the task of editing the annual volume of Foreign Relations published by the Department of State. During the years 1917 and 1918 it was called Division of Foreign Intelligence but in 1919 it was again called Division of Information. By Departmental order of May 24, 1921, its name was changed to Division of Current Information and the publication of Foreign Relations was assumed by the newly established Division of Publications.

Expansion During the World War—With the outbreak of the World War, the sudden overwhelming increase of work almost disrupted the Department. No longer could Alvey Adee, an assistant secretary since 1882, "carry the whole machinery of foreign policy under his hat". Our foreign legations and embassies were asked to take over the diplomatic posts of the belligerent states which required the supervision of millions of dollars for these nations.¹³ Our foreign representatives had to visit hundreds of prison camps and make reports through the Department.¹⁴ At the outbreak of the war the State Department received some 60,000 inquiries regarding Americans in Europe, all of which had to be answered. Passports which were scarcely ever used by travelers before the war now had to be issued in vast numbers. American

¹³ In some capitals the American diplomatic representative was also representing as many as five other nations.

¹⁴ In 1916 our representatives in Great Britain were inspecting 105 different camps for the Germans and Austrians and 148 camps in Germany for the Allies. See article by Secretary Kellogg in *United States Daily*, I, 3802 (Jan. 4, 1927).

foreign trade and foreign investments increased rapidly, which threw additional work upon the department.

The result was an abnormal expansion to meet an emergency. To take care of it in a scientific fashion was impossible. Experienced men to perform the various new duties imposed were simply not available. In desperation the State Department was forced to denude the diplomatic and consular posts throughout the world of many of their ablest officers. It has been stated that about half the responsible positions in the State Department during the period of the war were filled by Foreign Service officers. Nor was the work of the Department lessened to any appreciable degree during the post war period, but since by law the Foreign Service officers could not remain more than four years in Washington before being returned abroad the personnel of the State Department was in a state of constant flux.

Divisions of Mexican and Eastern European Affairs Established—Although the personnel of the State Department was vastly increased during the war period, there were practically no additional administrative units added. The emergency was so great that new officers were merely added to the organized units. The one exception was the establishment of a new division called Division of Mexican Affairs by a departmental order dated July 28, 1915, due to the extensive and complicated relations in which we became involved with Mexico after the overthrow of the Diaz régime and the subsequent revolutionary period.

Although not legally set up during the War, the Division of Eastern European Affairs can trace its origins to this period. A section of the Division of Near Eastern Affairs was created October 16, 1917, to handle more expeditiously matters pertaining to Russia and Rumania arising out of the World War and the Russian Revolution. A departmental order dated August 13, 1919, raised this section to an independent unit, called the Division of Russian Affairs. An order of October 10, 1922, changed its name to the Division of Eastern European Affairs, the only geographical division which has undergone a change of name since its establishment.

Office of Coördination and Review—After the War, however, it became essential to establish certain new administrative units

to carry on more effectively additional necessary functions. One very essential new bureau was set up due to the vast increase of correspondence brought about by the World War and its aftermath. Prior to the War the review of the Department's outgoing correspondence took about twenty minutes a day.¹⁵ Overnight the daily outgoing correspondence developed from seventy-five to a hundred, to a thousand pieces. Miss Margaret Hanna was made responsible for this work and by a departmental order dated October 7, 1918, the Correspondence Bureau was created to carry on this important work and Miss Hanna made its chief. The Bureau was discontinued temporarily in 1920 but reestablished as the Office of Coordination and Review by departmental order of January 31, 1924.

The Visa Office—Before the World War aliens did not require a passport visa to land in the United States. However, a joint order issued on July 26, 1917, by the Departments of State and Labor provided that "each passport of an alien must be visaed by the American Consulate or Diplomatic Mission if specifically authorized in the country from which the holder starts upon his trip to the United States". A presidential proclamation dated August 8, 1918, created the Visa Office as a part of the Division of Passport Control. It was made an independent unit by the order of November 23, 1919, and the considerable increase of work entailed by the Quota Act of 1921 and the Immigration Act of 1924 brought about its Division status by the order dated February 4, 1931.

The Undersecretaryship—In most governments where the Minister of Foreign Affairs is a political appointment provision is made for a permanent undersecretary. The United States had Mr. Adee until 1924 but he never ranked higher than an assistant secretary. By the Act of Congress of March 1, 1919, the President was authorized to appoint an Under Secretary of State with the advice and consent of the Senate. President Wilson appointed Mr. Frank L. Polk as the first Undersecretary of State and he entered upon his duties July 1, 1919. However, the office is by no means a permanent undersecretaryship. In fact, in the first fifteen

¹⁵ "Office of Coordination and Review," *American Foreign Service Journal*, VIII, 441 (November, 1931).

years of its existence, from July 1, 1919, to July 1, 1935, the office has had nine different incumbents, Mr. William Phillips, the present Undersecretary, having served for the second term.

Division of Publications and Office of Historical Adviser—By a departmental order dated May 13, 1921, a Division of Publications was established which took over the Bureau of Rolls and Library, which had been in existence some thirty-five years. The new Division was also given general supervision and editing of all publications of the Department including the preparation of the volumes of *Foreign Relations*. This Division was changed by a departmental order dated February 15, 1929, to the Office of Historical Adviser which included not only all the work of the Division of Publications but also supervision over the Archives Section and the Geographical Section. This Office was somewhat unwieldy and by a departmental order dated November 1, 1933, the Office was divided into a Division of Research and Publication and the Office of the Historical Adviser. The former retained the supervision of the Library and the preparation and distribution of all publications including *Foreign Relations*, while the latter was to advise on historical questions, edit and compile the treaties of the United States and supervise the work of the Geographer.

Assistant Secretaries of State—The so-called Rogers Bill of May 24, 1924, which so completely reorganized the Foreign Service in the field made a slight change in the Department of State organization. Up to this time there had been an assistant secretary of state, a second assistant secretary of state and a third assistant secretary of state. By the provisions of this act, the numerical distinction of rank was eliminated and an additional assistant secretary of state was authorized. At the same time the position of Director of the Consular Service was abolished and his duties and emoluments taken over by the new assistant secretary.

Personnel Administration—In order to effect the amalgamation of the diplomatic and consular career service in the newly integrated foreign service a departmental order of August 19, 1924, abolished the Diplomatic Bureau, the Consular Bureau and the office of Consular Personnel and set up in their place the Division of Foreign Service Administration.

Two other agencies were created to carry out the more effectively the provisions of the Rogers Bill: the Executive Committee of the Foreign Service Personnel Board to recommend promotions of foreign service officers and examine applicants and a Foreign Service School to give a more elaborate course of instruction to candidates who had been appointed foreign service officers. The first of these two agencies was created by Executive Order dated June 7, 1924, and its duties enlarged by a departmental order of August 19, 1924. The Foreign Service School was established by an Executive Order dated June 7, 1924, and its name changed to Foreign Service Officers' Training School by an Executive Order of June 8, 1931.

One of the greatest handicaps to the American foreign service is the lack of adequate government-owned quarters abroad to house the necessary official personnel of the diplomatic and consular services. An Act of Congress of May 7, 1926, attempted to remedy this situation by providing for the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States. To obtain the necessary information to carry out the provisions of this act, the Secretary of State, by an order dated June 23, 1926, set up the Foreign Service Buildings Office.

The Treaty Division—The United States has made treaties with other states ever since it became a nation. In fact, in the century and a half of its existence it has made over eight hundred treaties and agreements. Moreover in the post war period treaty making has been more prevalent than formerly and much more complicated. Prior to 1928 the many duties essential to the making of treaties were performed by treaty experts throughout the Department. But Secretary Kellogg, who has left a record of having signed more treaties than any of his predecessors, established the Treaty Division by an order dated April 28, 1928, in response to the need for centralization and consistent direction in the negotiation and drafting of treaties and agreements.

The Division of Protocol and Conferences—Strangely enough, the subject of ceremonial and precedence which is one of the oldest pertaining to diplomatic intercourse, was one of the last to be given the recognition of a separate division. For many years such questions were settled in the Diplomatic Bureau and the Third Assistant Secretary was the authority in this field. In 1919 a Ceremonial

Section was established in the office of the Third Assistant Secretary. This endured until the Rogers Act of 1924 eliminated the numerical assistant secretaries and added an additional one. One of the assistant secretaries carried on the duties of this nature with his other work. In 1925 one of the foreign service officers was given the position of ceremonial officer of the White House as well as retaining work of similar character in the Department. The departmental order dated February 4, 1928, established the Division of Protocol to take over matters of ceremonial and to make arrangements for international conferences, congresses and conventions in Washington and abroad.

Although international conferences in time of peace have been essentially a development of the nineteenth century, the twentieth century has witnessed such a remarkable increase in this form of international intercourse that work of the Protocol Division in this field has been exceedingly important. As a result, a departmental order of February 15, 1929, changed its name to that of Division of International Conferences and Protocol. A subsequent order of September 11, 1931, divided the duties and established two divisions, one known as the Division of International Conferences and the other as the Division of Protocol. However, economies necessitated by the depression seemed to warrant the combining of agencies wherever possible and by the departmental order of May 22, 1933, the two divisions were joined into a single division of protocol and conferences.

The Translating Bureau—We have record of a translator serving our first Secretary for Foreign Affairs in 1781 but he was a clerk as well, and for almost a hundred years the title was usually joined to that of a clerk or librarian. In 1877 the Register of the State Department carried the title of Translator. Gradually the work required the time of more than one full time officer and in 1901 the Office of the Translator appears for the first time. It retains this designation until 1921 when it appears as a Translator's Section under the Office of the Chief Clerk. The importance of the work became such that a departmental order of April 16, 1928, established the Translating Bureau.

Board of Appeals and Review and the Conciliation Commission—In concluding this brief sketch of the historical development of the State Department mention must be made of two

intradepartmental agencies of the post war period: the Board of Appeals and Review and the Conciliation Commission. The Board of Appeals and Review is a development of the Board of Efficiency set up by Secretary Lansing by an order dated April 16, 1916, to promote efficiency by the impartial application of the merit system to promotions and removals in the Department. It consisted of the Assistant Secretary of State, the Director of the Consular Service and the Chief Clerk. In accordance with the requirements of the United States Bureau of Efficiency, this board was enlarged and named the Board of Review by a departmental order of May 31, 1922. By an order dated November 6, 1933, Secretary Hull changed its name to that of Board of Appeals and Review and gave it the additional function of hearing appeals from opinions rendered by the Conciliation Commission established by the same order. The Conciliation Commission was a body of six members named by the Secretary of State—three from supervising employees and three from non-supervisory employees. The purpose of the Committee was to endeavor to adjust the differences between employees of the Department of State and their supervising officers.

Growth of the Department—The Department of State has thus grown from a department employing six officers with a total budget of \$5,950 including salaries and contingent expenses¹⁶ to an organization in 1934 of 722 employees with a budget of \$1,704,133.¹⁷ Instead of one undersecretary we have an undersecretary, four assistant secretaries and a legal adviser; in place of three clerks, we have more than twenty divisions, offices and bureaus. In its early days a half dozen of its incumbents advanced from this office to the presidency; in its more recent development men like Blaine, Hay, Root and Hughes have added lustre to its name. Yet to operate this first Department of the government—the “Department of Peace”, as Secretary Hughes called it, costs the people of the United States about as much for a period of twenty years as to construct one first class battleship. It is to be hoped that its development has not yet reached its potential possibilities.

¹⁶ Hunt, *op. cit.*, 80.

¹⁷ *Dept of State Appropriation Bill for 1935 Hearing 74th Cong.* (Washington, 1934) With the restoration of 5% to salaries on July 1, 1935, the estimates for 1936 are \$1,815,830.

CHAPTER V

THE ORGANIZATION AND WORK OF THE DEPARTMENT OF STATE

I. Offices and Divisions Largely Concerned with the Determination of Policy

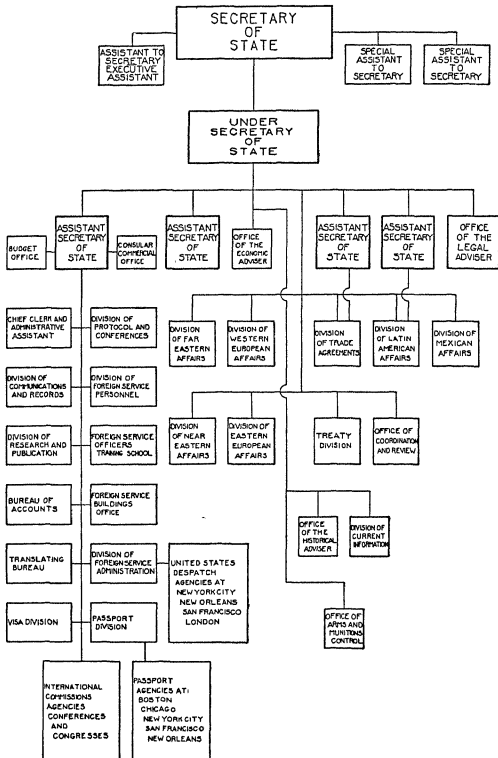
In attempting to describe the great organization which carries on the relations between the United States and the rest of the world it seems desirable for the sake of convenience to separate the Department of State into two parts on a functional basis. It is not necessary that the division be hard and fast but it will simplify the task before us if we may describe first the officials and divisions whose duties are largely concerned with the determination of policy and then take up the part of the organization which is more purely administrative in character.

It goes without saying that such a classification is necessarily arbitrary and that many officials in the Department perform both types of services. Nevertheless the work of the Department permits a fairly logical separation into the two divisions and the added convenience in simplifying the description may justify the attempt.

It should also be noted that we are concerned at this time with the Department of State proper and not with its agencies in the field nor with the various international commissions or other agencies engaged in related activities.

Although as we have already noted the President is largely responsible for the foreign policy of the United States, he must depend upon others to assist him in the formulation of this policy, and it is to the Secretary of State that he first turns for counsel and advice. But no one person can possibly be in a position to advise intelligently upon the innumerable and complex problems

DEPARTMENT OF STATE



which constantly arise in the relations of modern states. Therefore the addition of an undersecretary and of several assistant secretaries to the office has been an essential and logical development. In order that the Secretary's office may have technical assistance and intelligent advice regarding the background of political problems, the office of the legal adviser and the geographical divisions have been organized. The recent trend towards an ever increasing correlation between economic and political problems has necessitated the establishment of the economic adviser's office.

Thus there has grown up an efficient organization to aid the President in the conduct of our foreign affairs which is equipped to cope with the most difficult political or technical problems in international relations. As a result, although the Secretary and perhaps Undersecretary of State must be political appointments in the sense that they must fit in with the President's political views, all other officials who may be called upon to aid the President in the formulation of foreign policy must be specialists trained by long experience. The Department of State, therefore, has remained perhaps the least influenced of any of the executive departments by partisan politics.

Although in the preceding chapter and in subsequent chapters the various duties of the Department of State are treated, it might be advisable at this point to summarize briefly, with particular reference to the formulation and conduct of foreign policy, the duties as they exist today.

Among the more specific functions of the Department under this category we may list the following :

1. To assist the President with advice in the formulation of the foreign policy of the United States ;
2. To carry on the diplomatic correspondence of the United States with other sovereign states ;
3. To direct and administer the Foreign Service of the United States ;
4. To advise regarding the acceptance, recall or dismissal of foreign diplomatic agents and to assist in their reception ;
5. To aid in the negotiation, interpretation, enforcement and termination of all international agreements ;
6. To assist in the protection of American citizens and their rights and interests in foreign countries ;

7. To be ready to give information regarding the political, economic and social conditions as they exist in the world.

Unless the Department of State is competent to perform these varied and difficult duties both tactfully and efficiently, the well-being of the United States may be seriously jeopardized. The Department of State is essentially the department of the government concerned with the maintenance of peace and the United States must depend upon the wisdom of its personnel to maintain a position of respect and honor abroad.

A. THE OFFICE OF THE SECRETARY OF STATE

The Office of the Secretary of State in the United States is noticeably different from the position of foreign minister as it exists in the majority of states in two particulars. In the first place, the jurisdiction of the office still covers certain important domestic duties such as the publication of the laws and resolutions of Congress and the conduct of relations between the President and the governors of the states, and it is the Secretary of State who serves as the medium of communication in these instances. In the second place, the head of the office is, theoretically at least, merely the spokesman of the President and therefore cannot legally be held responsible for the foreign policy which he may sponsor. Nevertheless, in practice the respective personalities and interests of President and Secretary of State largely determine the rôle of each in the formulation and conduct of the foreign policy of the United States. For example, President Wilson paid very little attention to Secretary Lansing in working out his foreign policies while President Harding permitted Secretary Hughes to have almost a free hand.

The Secretary of State enjoys the position of being *primus inter pares* in relation to the other members of the President's cabinet. He is usually the President's closest adviser and right hand man and in cabinet meetings he occupies a seat immediately at the right of the President. The Secretary of State also takes first place among cabinet members in all matters pertaining to ceremonial. The Department of State was the first executive department to be established by Congress and it is still customary to

find the Secretary of State named first among cabinet officers in Congressional acts. We have already noted that the Act of January 19, 1886, placed the succession if a vacancy should occur in the offices of both President and Vice-President in the members of the cabinet successively, beginning with the Secretary of State.

The organic act governing the duties of the Secretary of State in the conduct of foreign affairs may still be said to be the Act of July 27, 1789, which set up the Department of Foreign Affairs. In accordance with the provisions of this act the Secretary was to "perform and execute such duties as shall from time to time be enjoined on or entrusted to him by the President of the United States, agreeable to the Constitution, relative to correspondences, commissions or instructions to or with public ministers or consuls, from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs, as the President of the United States shall assign to the said department. . . ." ¹

As the problem of conducting our foreign affairs has become increasingly complex, the Secretary himself has been compelled to depend more and more upon his subordinates so that at the present time only the most important state papers come before him, and he signs only such correspondence and documents as he cannot properly delegate others to sign in his name. The unfortunate phase of this situation is that the American representative in the field is never sure that his communication will reach the Secretary's eye even though it may be a matter of most vital import. Miles Poindexter, a former United States Ambassador to Peru, once told the writer that Secretary Hughes had never read the despatch which he sent advising strongly against the holding of a plebiscite in Tacna-Arica. The United States might have been spared much trouble if his advice had been followed. Henry P. Fletcher always telegraphed from Santiago, Chile, when he wanted to be sure that Secretary Bryan would read his despatch, as Bryan usually read telegrams. Frederic J. Stimson, former United States Ambassador to Argentina, declared that neither Bryan, Lansing nor Hughes had ever read one of his despatches, but that he found that if he gave the Associated Press correspondent the pressing

¹ 1 U. S. Statutes at Large, 28.

matter of a despatch, the Secretary was likely to get the information the next morning in the *Washington Post*.²

In defense of the Secretary of State it must be said that no Secretary of State even though a superman would be physically able to read daily even a small percentage of the despatches coming into the Department from some fifty-five ambassadors and ministers. In fact the demands upon his time from the President, the Congress, the press, the members of the Cabinet, Senators and Representatives who must be received scarcely leave him time to read all the telegrams received from the diplomatic missions and consulates. Therefore he must delegate the responsibility of reading all but the most important communications to competent Assistant Secretaries and Chiefs of Divisions.

The Secretary of State, however, does occupy himself with the negotiation of important treaties, with urgent questions of American policy in all parts of the world, with the protection of American interests abroad, and with such problems as recognition of governments, limitation of armament, and the establishment of better commercial relations with foreign states. It is a custom rigorously followed that all official communications from the President to other governments shall be signed by the Secretary of State. The sole exceptions are the so-called ceremonial notes of congratulation or condolence which may be signed by the President in person and sent directly to the head of a foreign state. In the same way all communications from American representatives abroad or foreign representatives in the United States which pertain to foreign affairs are addressed to the Secretary of State.

In these days when public opinion is of such importance in relation to foreign affairs, a good press is of the greatest value. Of course, the relations between the Secretary of State and the press depend considerably upon the personality and attitude of the Secretary of State, but in recent years daily conferences with the representatives of the press have almost become the rule.

The Secretary must also be available for visits of foreign representatives, and Thursday between eleven and one o'clock is generally set aside for this purpose. However, although Thursday may be regarded as "diplomatic day" in the Department of State,

² F. J. Stimson, "An Intimate Discussion on Our State Department," *Scribner's Magazine*, LXXXV, 163 (February, 1929).

the Secretary must be ready to receive a foreign representative on an urgent mission at the earliest possible moment.

While the primary function of the Secretary of State is to supervise the formulation of policy, he is by law assigned certain administrative duties. He grants and issues passports to citizens of the United States and diplomatic passports to foreign representatives; he is charged with the issuance of exequaturs to foreign consuls in the United States. He has custody of the Seal of the United States, and he countersigns and affixes this Seal to all treaties, executive proclamations, various commissions and to extradition warrants. He is the custodian of treaties made with foreign countries.

The Secretary of State is by departmental order required to sign personally the following documents and correspondence:

1. All important correspondence on policy requiring his decision;
2. Reports to the President for transmission to Congress;
3. All important letters addressed to the heads of Executive Departments and Independent Offices;
4. All letters to members of Congress and to Governors of the States and Territories, letters of introduction, special letters of commendation to officers in the Foreign Service;
5. Contracts and emergency fund expenditures;
6. Commissions, exequaturs, and similar public documents.³

The Secretary of State must still perform a few functions of a domestic nature. He is the medium for correspondence between the President and the chief executives of the several states of the United States. He publishes the laws and resolutions of Congress, amendments to the Constitution, and proclamations of the admission of new states into the Union. In Presidential elections the Secretary of State is officially informed by the governors of the states of the votes cast for presidential electors; he certifies these votes to the President of the Senate and the Speaker of the House of Representatives, and publishes the governors' certificates. He is custodian of the laws of the United States. It was due to the assumption of these duties as provided by Act of September 15, 1789, that the title, Secretary of Foreign Affairs, was changed to that of Secretary of State. John W. Foster, who for a short

³ *Departmental Order # 587—Signature of Mail.*

period ably filled this position, has declared that "it was an unwise and misleading change, as the name indicates that the main business of the department was of a domestic character, whereas it is almost wholly international in its functions, and should be termed the Department of Foreign Affairs, as provided in the original law . . . it is unfortunate that the name should have been changed, as the new duties might have been added without altering the character of the department, and the misnomer which has adhered to it for more than a century might have thus been avoided." ⁴

Inasmuch as the President is responsible for all acts performed by the Secretary of State the relationship between the two is usually very close, but the rôle of the Secretary of State depends largely upon the interest of the President in foreign relations and his confidence in his Secretary of State. Often upon receiving an important document from Secretary of State Seward, President Lincoln merely asked where he should sign his name ⁵ According to Mr. Thayer, "Mr. Hay used to tell his friends that often President McKinley did not send for him once a month on business, but that he saw President Roosevelt every day." ⁶ Although Secretary Hay had a much freer hand in the formulation of policy under McKinley than under Roosevelt, there is no doubt but that both presidents depended to a considerable extent upon his counsel. On the contrary, President Wilson depended very little upon Secretary Lansing for counsel or advice, but rather used him as a trained expert in international law to see to it that the president's communications and instructions were couched in the proper legal phraseology

Although Lord Bryce once wrote that "the President has a Secretary of State to advise him who is . . . frequently only a politician selected because of his party standing and possessing little knowledge of world affairs", ⁷ the appointment of men like Hay, Root, and Hughes in recent years belies the contention. Writing concerning Secretary Olney, Montgomery Schuyler, him-

⁴ John W. Foster, *A Century of American Diplomacy* (New York, 1900), 124.

⁵ Frederick W. Seward, *Reminiscences of a War-Time Statesman and Diplomat* (New York and London, 1916), 148.

⁶ W. R. Thayer, *The Life of John Hay* (New York, 1915), II, 297.

⁷ James Bryce, *Modern Democracies* (New York, 1927), II, 373.

self a former diplomat, declared that "the Secretary of State should be a man so big and so able to accept responsibility and make decisions that only in rare cases should matters of foreign policy be referred to the President and then only with a statement of the policy advocated by the Secretary".⁸

The Secretary of State is *ex officio* a member of the Governing Board of the Pan-American Union and the Foreign Service Buildings Commission. At the present time the Secretary of State has a regular assistant, an executive assistant, a secretary, a private secretary, and two special assistants who serve directly under him and are charged with such duties as the Secretary may assign.

A critical evaluation of the achievements of approximately sixty incumbents who have filled the important position of Secretary of State in the United States would show their vital influence upon the development of American foreign policy. John Quincy Adams as Secretary of State gave us the Monroe Doctrine, James Buchanan formulated the doctrine of expatriation, William Seward by the purchase of Alaska, our first non-contiguous territory, launched the United States upon a policy of imperialism, James G. Blaine was the father of Pan-Americanism, John Hay made the Open Door a fundamental basis of American foreign policy, Elihu Root laid the foundations for the foreign service as a career and Charles Evans Hughes initiated the policy of limitation of armament. Although it may be presumptuous to evaluate the work of the more recent Secretaries of State, history will not be able to overlook Secretary Kellogg's stubborn advocacy of the renunciation of war as an instrument of national policy, Secretary Stimson's policy of non-recognition of states organized in violation of treaty commitments and Secretary Hull's efforts to break down commercial barriers by reciprocal trade agreements.

In the words of a former American consul-general, the Secretary of State is "the pivot of the entire system, with enormous powers sufficiently within his control to give the stamp of his personality to the whole range of transactions to which the nation is a party during his incumbency".⁹

⁸ Samuel Flagg Bemis, ed., *The American Secretaries of State and Their Diplomacy* (New York, 1928), VIII, 321.

⁹ Tracy Lay, *The Foreign Service of the United States* (New York, 1928), 74.

B. THE OFFICE OF THE UNDERSECRETARY OF STATE

The Secretary of State, as we have already indicated, by virtue of his close relationship with the President, must be a political appointee of the President. In fact, the President has almost a free hand in this appointment and rarely does the Senate refuse an immediate confirmation. On the contrary, although there is no legal requirement to this effect, it was generally hoped that since the Secretary of State must be a political nominee, the Undersecretary should be a permanent appointee from the career service or from the experienced personnel in the Department whose tenure might give a greater degree of continuity to the work of the Department. It may be said that although this hope has not been realized in respect to permanency, it has not been disappointed in the qualifications and ability of the incumbents.

The office of Undersecretary of State was first provided for by law in 1919.¹⁰ For the preceding ten years a position known as Counselor to the State Department existed, but with the advent of the new office the position of Counselor was dropped. In 1923 the situation was regularized by the following provision in the annual appropriation act: "Undersecretary of State and the counselor for the department shall hereafter be designated 'Undersecretary of State' to be appointed by the President by and with the advice and consent of the Senate. . . ." ¹¹

The first Undersecretary of State was Frank Lyon Polk, an able lawyer who had already served as Counselor in the Department of State for four years, and for six months had been Acting Secretary of State while Secretary Lansing was in France. He was succeeded by Norman H. Davis, who had represented the United States abroad as financial commissioner, and had served both on the Armistice Commission and upon the Supreme Economic Council. Of the eight subsequent appointments up to date (1935) all but two have been from the career service. Of these two, one, J. Reuben Clark, had served previously as solicitor for the Department of State and was an outstanding authority on international law, and the other, Joseph P. Cotton, was appointed by President Hoover at the request of Secretary Stimson to help

¹⁰ 40 U. S. Statutes at Large, 1224.

¹¹ 42 U. S. Statutes at Large, 1068.

reorganize the department. Although a corporation lawyer, Mr. Cotton was an inveterate foe of established precedent and only his untimely death prevented the completion of the task to which he was committed. Even the *Nation*, critical as it is of corporate wealth and its representatives, agreed that he had been "intellectually honest and genuinely liberal" in the conduct of his office.

Up to the present time Mr. Joseph C. Grew, Ambassador to Japan since 1932, who served as Undersecretary from April 16, 1924, to June 30, 1927, has held the office for the longest continuous period.

The Undersecretary of State is the principal assistant and adviser to the Secretary of State. He aids the Secretary in the discharge of his various functions, such as formulating and executing the foreign policies of the government and in the reception of the representatives of foreign governments. He has general direction over the work of the Department, and the heads of the geographical divisions quite commonly confer with him in the formulation of policies. In fact, where the Undersecretary is particularly familiar by experience and training with certain fields, the heads of those geographical divisions report directly to him. For example, since the present Undersecretary, Mr. Phillips, is particularly familiar with the European situation and to some considerable extent with the Far East, the heads of these two geographical divisions confer regularly with him.

The Undersecretary customarily acts for the Secretary in matters which do not require the Secretary's personal attention and in the absence of the Secretary he becomes Acting Secretary of State. According to departmental regulations, the Undersecretary signs personally:

1. General correspondence of importance relating to political policy matters which is not signed by the Secretary, and which requires the signature of the Under Secretary;
2. Correspondence on special subjects which comes before him for decision or is referred to him for final action by the Secretary;
3. General letters to Executive Departments and Independent Offices, Diplomatic notes, instructions to the field which are not signed by the Secretary.¹²

¹² *Departmental Order # 587*—Signature of Mail.

The present Undersecretary of State, William Phillips, is not only a career man, but has had previous experience both as Assistant Secretary of State and as Undersecretary of State. His predecessor, William R. Castle, Jr., was also a career man with experience as Assistant Secretary before his appointment as Undersecretary. From the record of the appointments already made, it would therefore seem as though the precedent is fairly well established that experience as well as ability shall be important qualifications for future appointments to this office.

C. THE ASSISTANT SECRETARIES OF STATE

For more than half a century after the Department of State was established, the Chief Clerk served as Assistant Secretary of State and acted as Secretary in the absence of his chief. In fact, his duties as stated were to be such in all respects as pertained to an Undersecretary of State. By the Act of March 3, 1853, we find provision made for the first time establishing an Assistant Secretary of State.¹³ A Second Assistant Secretary of State was created by the Act of July 25, 1866,¹⁴ and a Third Assistant Secretary of State by the Act of June 20, 1874.¹⁵ No further changes occurred until the Rogers Bill of May 24, 1924, eliminated the numerical distinction of rank among the secretaries and authorized the appointment of an additional assistant secretary to take over the duties of the Director of the Consular Service, an office which was thereby abolished.¹⁶

It is in the office of Assistant Secretary of State that we find the best examples of permanency in the Department. Mr. William Hunter, who had been in the Department since 1829 and by 1852 had become Chief Clerk, was made Second Assistant Secretary of State in 1866 and held the office for the next twenty years. He was succeeded by Mr. Alvey H. Adee who, entering the Department in 1874, had become Third Assistant Secretary of State in 1882; at the death of Mr. Hunter in 1886 Mr. Adee was promoted to the position of Second Assistant Secretary of State. He held this position for the next thirty-eight years until he was made

¹³ 10 *U. S. Statutes at Large*, 212.

¹⁴ 14 *U. S. Statutes at Large*, 226.

¹⁵ 18 *U. S. Statutes at Large*, 90.

¹⁶ 43 *U. S. Statutes at Large*, 146.

Assistant Secretary of State on July 1, 1924, three days before his death. Mr. Adee became such an important cog in the machinery of the Department that he came to be known as the permanent undersecretary. Fluent in the use of French, German, Italian and Spanish, an expert in English diplomatic phraseology, he was generally conceded to be America's greatest expert in both the content and technique of diplomacy. The story is told that Mr. Gaillard Hunt, then chief of the Bureau of Manuscripts in the Library of Congress, went to Mr. Adee to see about transferring certain documents from the Department to the Library. "Mr. Adee", he said, "the law entitles us to withdraw from the Department to the Library all ancient, historical and no longer useful material." "If that is so", replied Mr. Adee, "you will have to take me along too." He served in the Department in one capacity or another during the incumbencies of twenty-two secretaries of state and it was John Hay who called him "Semper Paratus" Adee.

Mr. William Phillips, present Undersecretary of State, had already served some seven years upon two previous occasions either as Third Assistant Secretary of State or Assistant Secretary of State before receiving his appointment as Undersecretary. It is Mr. Wilbur Carr, Assistant Secretary of State since 1924, however, who bids fair to carry on the Adee tradition. Entering the service as a clerk in 1892, he has served as Chief of the Consular Bureau, as Chief Clerk, and as Director of the Consular Service until that position was merged with that of Assistant Secretary of State.

As organized at present, Mr. Carr, the ranking Assistant Secretary of State, is charged with the general administration of the Department of State and the Foreign Service particularly as it pertains to the supervision of matters relating to personnel and management. This work is merely the continuation and extension of his work as Director of the Consular Service. He is also the budget or fiscal officer of the Department whose duty it is to supervise and prepare the estimates of the Department's appropriations and then present and defend them before the appropriation committees of the Congress. Once the appropriations have been made, it is his duty to supervise their allotment and expenditure. He has been aptly called the works manager of the Depart-

ment, both at home and abroad. Because of his long and intimate association with the Foreign Service, he is Chairman of the Foreign Service Personnel Board, the Board of Examiners for the Foreign Service, and the Foreign Service School Board.

In accordance with departmental regulations, Mr. Carr, as Assistant Secretary of State, signs all correspondence drafted in the Department of State as follows:

1. Correspondence relating to personnel, fiscal and budgetary matters, legislation, administration, et cetera, which is not signed by the Secretary or Undersecretary, and which requires the signature of an Assistant Secretary;
2. Correspondence relating to immigration and nationality matters of a nature requiring the signature of an Assistant Secretary;
3. Correspondence relating to appointments, international conferences, et cetera, which authorizes or relates to expenditures or administration;
4. Correspondence on free entry and customs matters and protocol questions of a nature requiring the signature of an Assistant Secretary;
5. Routine letters to Executive Departments, telegrams, Diplomatic notes and instructions on above subjects which are not signed by the Secretary or the Under Secretary.¹⁷

As originally organized under Secretary Kellogg, the other three assistant secretaries of state were assigned definite jurisdiction over certain geographical divisions. With the advent of Secretary Stimson, certain assistant secretaries were appointed with no particular experience in the field work, and therefore not qualified to exercise direction over a geographical division. Secretary Hull has followed the same policy so that at the present time only in the Latin American field do we find an assistant secretary with special jurisdiction.

The present assistant secretary in charge of Latin American affairs, Sumner Welles, like Francis White who preceded him, is an outstanding specialist in the field of Latin American relations. He served, as did his predecessor, as foreign service officer at various Latin American posts, and as head of the Division of

¹⁷ *Departmental Order # 587*—Signature of Mail.

Latin American affairs before being appointed Assistant Secretary of State in charge of Latin American affairs. If the record of the present incumbent be regarded as a precedent, an assistant secretary of state may be called upon to don suddenly the toga of an ambassador if urgent matters require his attention in the field. At any rate, within a fortnight of his appointment as assistant secretary of state, Mr. Welles was requested by Secretary Hull to proceed to Cuba to assist in bringing order back to that revolution-wracked republic. Perhaps, however, this assignment was merely due to the fact that Mr. Welles had had similar tasks thrust upon him in the Dominican Republic in 1922 and in Honduras in 1924.

As might be expected, the Assistant Secretary of State charged with Latin American questions not only supervises directly the Division of Latin American Affairs, but also its important offshoot, the Division of Mexican Affairs. Although he may be assigned any other duties which the Secretary of State deems advisable, the problems in the Latin American field are so varied and complex that the Assistant Secretary charged with these duties has little time for other matters. This assistant secretary is required to sign general correspondence relating to aviation affairs and to Latin America and Mexico which is not signed by the Secretary or the Undersecretary, and which requires the signature of an Assistant Secretary.¹⁸

Another Assistant Secretary of State is charged with economic, financial, tariff and general trade matters, and signs personally all correspondence relating to these matters which requires the signature of an Assistant Secretary.¹⁹ There is no question but that economic matters are constantly bulking larger in the international field. The trade barriers of the post war period are not so much built up upon economic as upon political grounds. Therefore the State Department, although a political agency, must very frequently solve very complicated economic problems. In fact, claims, debts, and impediments to trade have been among the outstanding international problems between states for the past few years.

¹⁸ *Departmental Order # 587—Signature of Mail.*

¹⁹ *Ibid.*

Secretary Hull came into office determined to do something about the artificial barriers that were clogging the channels of the world's commerce. He appointed Mr. Francis B. Sayre as Assistant Secretary of State to help work out and put into effect a series of trade agreements which should serve as an entering wedge towards opening this artificial commercial jam. A trained international lawyer, who had served for a number of years as adviser to the government of Siam and who in that capacity had negotiated a number of trade agreements, Mr. Sayre's appointment could hardly be classed as primarily political.

The last assistant secretary of state to be considered is the general utility man in the Department, charged with such duties as may be assigned to him by the Secretary of State. The varied type of correspondence which the regulations require him to sign personally gives an idea of the scope of his activities. He signs correspondence relating to Soviet Russia; water boundary, banco, agrarian, and other legal questions on the Mexican or Canadian Border, treaty negotiations and interpretation of or action under a treaty (except commercial treaties or trade agreements); silver; reparations; law of aviation; international communications; claims, important legal questions; et cetera, which is not signed by the Secretary or the Undersecretary, and which requires the signature of an Assistant Secretary²⁰ Under these circumstances this office requires a broad legal and political background and a pleasing personality perhaps more than a purely technical training. The present incumbent, Mr. R. Walton Moore, is a man of long experience in the law, who had served for a considerable period of time on the House Committee on Foreign Affairs. He is a very close personal friend of the Secretary as well as a trusted and valuable adviser.

A comparison of the duties exercised by the assistant secretaries of state over a period of years indicates that no hard and fast divisions of work are either possible or desirable. The qualifications and experience of the men chosen will depend partly upon the personality of the Secretary of State and partly upon the type of problems facing the country. Under all circumstances, however, it would seem advisable that at least two of the four assistant secretaries should be chosen from the career service.

²⁰ *Departmental Order # 587*—Signature of Mail

D. GEOGRAPHICAL DIVISIONS

1. *Division of Far Eastern Affairs*

Although of fairly recent development, the so-called geographical divisions of the State Department, of which the Division of Far Eastern Affairs²¹ was the first to be established, have become the basic policy-formulating mechanism of the Department. As the United States, since the turn of the century, has been drawn steadily, although hesitatingly, into the complex problems of world affairs, it has become increasingly necessary to have a personnel in the State Department equipped by training and experience to cope with complicated international questions.

While the seed of the geographical divisions was sown by Secretary Fish in 1870 when he set up a First Diplomatic Bureau to take care of correspondence with Western Europe and the Far East and a Second Diplomatic Bureau charged with correspondence with the rest of the world, the present geographical divisions really date from the administrations of Secretaries Root and Knox.

In 1907 Mr. Huntington Wilson, then Third Assistant Secretary of State, took into his office two young career officers who had served in the Far East. The arrangement was so satisfactory that Secretary Root, seeing the advantage of separating questions of policy from those of administration, issued a departmental order under date of March 20, 1908, establishing a Division of Far Eastern Affairs. Mr. William Phillips, one of the two career officers, was placed at its head. The Division was reorganized and enlarged by Secretary Knox in 1909 when he set up three other geographical units: a Division of Latin American Affairs, a Division of Western European Affairs and a Division of Near Eastern Affairs.

From the time of its creation up to the present, the Division of Far Eastern Affairs has been directed and staffed by men who are experts in the field. Outstanding authorities who have made the problems of the Far East their life work such as E. T. Williams, J. V. A. MacMurray and Nelson T. Johnson have served as its chief. The present chief, Stanley K. Hornbeck, who has

²¹ See the excellent article in *The American Foreign Service Journal*, IX, 385 (October, 1932).

directed the work of the office since 1928, is recognized not only as an authority in his field, but as possessing one of the keenest minds in the Department.

The Division at present is charged with questions relating to conditions political and economic in the Pacific area. As officially stated, its jurisdiction includes "China, Japan, and Siam, and (in conjunction with the Division of Western European Affairs and other interested divisions) with the Far Eastern possessions and territories of European nations and the foreign-controlled islands of the Pacific not included therein, and of such matters as concern this Department in relation to the American-controlled islands of the Pacific and the Far East in general."²² The embassies at Tokyo and Peiping, the embassy office at Nanking, the legation at Bangkok, and the numerous consular posts in China, Japan and Siam are the special concern of this Division.

Inasmuch as diplomatic and consular officers assigned to the Far Eastern posts find it difficult to perform their duties without a knowledge of the language, under the direction of the Far Eastern Division a system of training for personnel to be stationed in China and Japan has been worked out. Under regulations issued in 1926 a certain number of Foreign Service officers are chosen to be attached for two years to the embassies in Tokyo and Peiping to study the Japanese and Chinese languages. From these specially trained language officers most of the consular offices and certain posts in the diplomatic missions in these countries are staffed. The Division itself also draws about half of its officers from the career service in the field.

Inasmuch as the problems of the Far East are exceedingly complex, and there is less familiarity with them than with political problems of Latin America or Europe, the Division acts as a general clearing house in Far Eastern Affairs for the Department in its contacts with other departments, with other governments, and with the public. The protection of businessmen, travelers and missionaries, the problems of extraterritorial jurisdiction, the policy of the open door, the critical relations between China and Japan, the suppression of illicit traffic in narcotics, all of these questions are constantly requiring the attention of the Division.

As organized at present, the Chief of this Division reports

²² *Register of the Department of State*, July 1, 1935 (Washington, 1935).

directly to the Undersecretary or Secretary of State. One Assistant Chief is charged with economic matters, another serves as executive officer and a third is responsible for all matters pertaining to the drug traffic.

The United States has been particularly interested in the suppression of the opium traffic ever since it took over the Philippines. It has taken a leading part in international conferences on the subject and as a rule an officer of the Division serves as a delegate. For example, the Division was represented at the Second Geneva Opium Conference of 1924-25, at the Preliminary Conference on the Limitation of the Manufacture of Narcotic Drugs held in London in 1930, at the Geneva Conference for the Manufacture and Distribution of Narcotic Drugs of 1931, and at the Conference on Opium Limiting in the Far East held at Bangkok in 1931. The American government has cooperated consistently with every international agency for the suppression of illicit trade in dangerous drugs, even to the extent of sending a representative regularly to attend the sessions of the Opium Advisory Committee of the League of Nations. The Division of Far Eastern Affairs handles all correspondence for the Department of State on these matters.

To deal with the intricacies of relations with a part of the world, where, as in Japan, the people rejoice in the tradition of an Imperial House descended from a Sun Goddess while solving problems of modern science and engineering; where as in Siam, a country until recently remote and governed after the forms of an absolute monarchy, communication with Europe by regular air service has been established within the past two years and constitutional government has superseded absolutism . . . where as in China, forces of evolution and revolution are working overtime, to struggle with problems which arise in or involve areas where East is West and neither is either—such is the “job” of the Far Eastern Division and the officers of the Department in the Far East.²³

2. *Division of Western European Affairs*

It would be very difficult to find a name which would accurately cover the geographical areas which come under the juris-

²³ “The Division of Far Eastern Affairs,” *The American Foreign Service Journal*, IX (1932), 385

diction of the so-called Division of Western European Affairs, which extends from Greenland to Gibraltar, from Morocco to South Africa, from India to Shanghai. Since the League of Nations and its activities are within its purview, it receives reports from the Chaco and concerning Manchukuo. When it was thought possible that Admiral Byrd might discover and take possession of new territory at the South Pole, the question was referred to this Division. According to the official pronouncement, it "has general charge, under the Secretaries, of relations diplomatic and consular, political and economic, with Austria, Belgium, Canada, Czechoslovakia, Denmark, France, Germany, Great Britain (including Northern Ireland, British Dominions beyond the seas, India) Hungary, Irish Free State, Italy, Liberia, Morocco, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Union of South Africa, and international organizations in Europe, European possessions in the Far East in conjunction with the Division of Far Eastern Affairs".²⁴

The Division of Western European Affairs was created simultaneously with the Division of Near Eastern Affairs by a departmental order dated December 13, 1909. When first organized it was placed under the direct supervision of the Third Assistant Secretary of State who added the duties of Chief of Division to his regular assignment. This arrangement continued until the increased burden of work entailed by the World War necessitated in 1915 a more autonomous organization. Nevertheless, the newly appointed Acting Chief, Mr. William Walker Smith, a career officer, maintained very close relations with the Third Assistant Secretary, Mr. William Phillips, who had already become a specialist in European affairs, and who took the responsibility for the Division's policies in this field. The arrangement of appointing a career officer as Acting Chief under the Third Secretary was maintained until 1921 and Frederick A. Sterling, Joseph C. Grew and Albert Ruddock served in turn. In 1921 William R. Castle was appointed Acting Chief and later in the same year was made Chief of the Division. He served until 1927 when he was succeeded by Theodore Marriner, another career officer. When Mr. Marriner went to Paris in 1931 as Counselor to the Embassy, Pierre de L. Boal, the Assistant Chief, was appointed Chief. He

²⁴ *Register of the Department of State*, July 1, 1935 (Washington, 1935).

was succeeded in 1932 by Jay Pierrepont Moffat, a career officer with wide experience at diplomatic posts and in international conferences, who was appointed Consul General at Sydney, Australia, in 1935. The present incumbent, James Clement Dunn, was a foreign service officer from 1919 to 1930 and since that time has served in the Department of State as Chief of the Division of International Conferences and Protocol. He resigned this position to accept his present appointment on July 1, 1935.

As might be expected, the Division of Western European Affairs is the largest politico-geographical division in the Department. Its present organization comprises a chief, two assistant chiefs and nine officers of whom five besides the chief are career officers and three are ex-foreign service officers. A certain degree of specialization is required in this Division due to the wide variety and diverse character of its activities. Each of the officers, with the exception of the chief, is responsible for a certain designated field or area, and he is expected to keep himself thoroughly familiar with all matters which relate to it and when required report to the chief upon them. The Chief of the Western European Division confers regularly with the Undersecretary of State regarding the policies to be pursued in matters within his jurisdiction.

The procedure for routine reports from diplomatic and consular officers abroad is approximately as follows: the correspondence or despatches go first to the officer in charge of affairs for the country in which the documents originate. He reads them carefully and if he thinks certain passages should receive the attention of the chief, he marks them or prepares a memorandum upon the question as a whole. However, if no action is required and the matter is of a routine character, the officer in charge makes the information a part of his background and has the correspondence filed away for possible future reference. If a situation arises which concerns any particular country the chief may request the responsible officer to prepare a memorandum or he may call him into an oral conference. In either case, the assistant in charge is expected to be prepared with all the relevant information.

It is quite customary for representatives of foreign missions in Washington to call personally upon the chief of a geographical division for information when the matter is not of sufficient importance to go directly to the Secretary or Undersecretary of

State. As a result, a considerable amount of the chief's time is taken up by such conferences.

In addition to the very large volume of correspondence to be taken care of from the wide-flung areas under its jurisdiction, the Division is charged with certain other special duties. Since the League of Nations with its headquarters at Geneva is within the Division's jurisdiction, it receives all of the documents and materials published by this organization. Although the United States is not a member, the Department of State is keenly interested in the many political and technical activities of the League. The Division is made responsible for keeping fully informed on the League's work and the American consulate general at Geneva gives a complete report of all the League's activities directly to the Division. A former Assistant Chief of the Division, Consul General Prentiss B. Gilbert, is charged with this duty, and more than half the time of his staff is devoted to political reporting concerning League activities.

The Division also has jurisdiction over the American delegations to various international conferences related in some measure to the League functions. Perhaps the most important of these has been the Conference for the Limitation of Armament which, including its preliminary activities, has been intermittently in session since 1925. The United States has been constantly represented at these sessions and has found it necessary to maintain at Geneva a skeleton organization of its diplomatic mission stationed at Bern in order to make its participation the more effective. In fact, the activities of Hugh R. Wilson, Minister to Switzerland, have been largely concerned with the problem of disarmament.

The remarkable increase of international conferences in the post war era has made the preparation of agenda a considerable task. The policy of reciprocity trade agreements has also required the full time of several members of the Division for considerable intervals, both in the preparation of memoranda and for consultation on policy. The problem of maintaining an international lighthouse at Cape Spartel, of recognizing the Spanish zone in Morocco, of the policy to be followed to secure adherence to the World Court protocols, or of working out a convention for the protection of Niagara Falls with Canada, or the fur seals in

Bering Sea, are all grist for the mill of the Division of Western European Affairs.

3. *Division of Near Eastern Affairs*

The Division of Near Eastern Affairs²⁵ was established simultaneously with the Division of Western European Affairs by a departmental order dated December 13, 1909. As set up originally, the Division had jurisdiction over certain nations which could not properly be classified as Near Eastern states, as for example Germany, Austria, Hungary and Russia. At the present time, however, it is limited in its jurisdiction to those areas which might more accurately be designated as appertaining to the Near East. Inasmuch as the term "Near East" is somewhat ambiguous, it is advisable to name specifically the states with which the Division is particularly concerned. Officially stated, "the Division of Near Eastern Affairs has general charge, under the Secretaries of relations, diplomatic and consular, political and economic with Afghanistan, Albania, Bulgaria, Egypt and the Anglo-Egyptian Sudan, Ethiopia, Greece, Iran, Iraq, Palestine and Trans-Jordan, Rumania, Kingdom of Saudi Arabia and other countries of the Arabian Peninsula, Syria and the Lebanon, Turkey and Yugoslavia."²⁶

The Division of Near Eastern Affairs, like its prototype of the Far East, deals with questions which often have little or no resemblance to the problems of the western nations. Although we succumb very quickly to the irresistible charm of the literature and art of the East we find it a much slower and more difficult process to understand its philosophy and its religion. Yet no appreciation of the political and economic problems of many of the countries in this area is possible without an understanding of the religious and philosophical concepts which underlie them.

It is therefore almost a *sine qua non* of this Division that its personnel shall have had training and experience in the Near East. Howland Shaw, now Counselor of Embassy in Turkey, and formerly Chief of the Division of Near Eastern Affairs, a great

²⁵ See article in *The American Foreign Service Journal*, X, 16 (January, 1933).

²⁶ *Register of the Department of State*, July 1, 1935, 9.

scholar in this field, has said, "No matter how well trained an official may be, he cannot begin to understand Near Eastern affairs except through service in the Near East and through a careful study of its history and institutions. For this reason it is necessary that the Foreign Service officers in the field should have assignments sufficiently long to enable them to make some real progress towards understanding the Near East. It is important also that those on duty in the Division at Washington should have had experience in the Near Eastern field." ²⁷

This principle has been almost rigidly followed in appointing the personnel of this Division. Experienced foreign service officers have regularly served as its chief. Evan E. Young, Hoffman Philip, John Van A. MacMurray, Sheldon Whitehouse, Warren D. Robbins, Allen W. Dulles, and Howland Shaw are all names outstanding in the American foreign service and all have served as chief of the division. The present incumbent, Wallace Murray, had served both as officer in the Near East and as assistant chief of the Division before his appointment as chief in 1929. Of his four assistants, two are foreign service officers, one an ex-foreign service officer and the fourth is a specialist upon economic matters.

As a specialized intensive training is required to understand properly the peculiar problems of the Near East, Howland Shaw in 1926 inaugurated a policy of specialization for officers interested in and adapted to service in the Near East. Certain experienced men of ability were picked and new students made aware of the possibility of such specialization. If a prospective candidate was interested and seemed suited to the work he was given a probationary assignment in the Near East and then upon his return to the Department examined carefully as to his physical and mental reactions. The need of language training was recognized by an executive order issued May 8, 1928, establishing regulations to govern the selection, training and promotion of Foreign Service officers for language assignments in the Near East, in Eastern Europe and North Africa. Under this order provision was made for the assignment to the consul general in Paris as language officers of a certain number of candidates who for three years as a part of their duties should study Arabic, Turkish, modern Greek and modern Persian at the *École des Langues Vivantes Orientales*.

²⁷ *The United States Daily*, I, 3866 (January 8, 1927).

Such officers were expected to remain in the Near Eastern field although they might be given a relief assignment at a port like London after a considerable period of service ²⁸

The story is told of a certain young foreign service officer from a western state who desired service in the Near East but was not thought adapted to it. However, merely by chance he received a Near Eastern assignment, but was not permitted to qualify for study in Paris. Nevertheless, he kept insisting, and as his work was quite satisfactory, he was finally given the opportunity. His work was so exceptionally brilliant that upon its completion he was invited to become a member of the staff of the school, an almost unbelievable honor for an American student. He remained in the service, however, and received an assignment where his exceptional talents might be properly utilized.

The work of the Division is rendered somewhat more complicated by the fact that the so-called capitulatory rights still exist in certain countries of the Near East. In addition to the "capitulations" granted by treaty, other extra-territorial privileges have grown up by custom and usage. Although Turkey has denounced all such rights, they still exist in Egypt, Ethiopia and Muscat.

Another factor of special interest in the Near East is the large number of American educational and research institutions which have been established there. Although Robert College, the Constantinople College for Women and the American University of Beirut are perhaps best known, there are a number of other American institutions of higher learning, as well as archaeological expeditions actively at work in Greece, Egypt, Mesopotamia and Iran.

The Division, therefore, has many problems outside of the regular political and economic questions which arise and which require a comprehensive and intelligent appreciation of the various factors involved in order to settle them. To understand more fully the customs and traditions of the Near East, the Division has encouraged the preparation of a series of scholarly monographs by the American Embassy in Turkey upon social and educational questions. These research studies serve as excellent sources of reference and as examples of extraneous but valuable activity for

²⁸ For an interesting article on the "Near East Language Scheme" see *The American Foreign Service Journal*, V, 366 (October, 1933)

the younger officers who wish to engage in more than mere routine work.

4. *Division of Latin American Affairs*

The Division of Latin American Affairs²⁹ is the second oldest of the geographical divisions, since the departmental order establishing it was dated November 19, 1909, while the order establishing the Divisions of Western Europe and the Near East was dated December 13, 1909. Ever since the promulgation of the Monroe Doctrine in 1823 the United States has evinced a profound interest in its Latin American neighbors. In fact, most of the catch phrases descriptive of American foreign policy have been related in some way to the Latin American republics. The Doctrine of Two Spheres, Paramount Interest, Ultimate Destiny, Big Stick Policy, Dollar Diplomacy, Pan Americanism, the Policy of the Good Neighbor, all are closely associated with the desire of the United States to distinguish between its political interests in the New World and the Old. In fact, the work of the Division became so heavy, charged as it was with supervision of matters relating to the twenty independent republics south of the Rio Grande that in 1915 a separate Division of Mexican Affairs was established.

There is perhaps no Division in the Department where career men have been more regularly utilized. At the present time the chief, Edwin C. Wilson, and the two assistant chiefs, Joseph F. McGurk and Willard L. Beaulac, are foreign service officers. In fact, of the eleven officers now assigned to the Division, eight are foreign service officers and one an ex-foreign service officer. Although this makes for a greater degree of interchangeability since foreign service officers may remain for a maximum period of four years on assignment in the Department, nevertheless the arrangement tends to bring in a constant influx of men recently familiar with the actual working out of the policies dictated by the Department.

The Division prides itself that every one of its officers has had some experience in the field, either as a foreign service officer or

²⁹ For further details see the article on the Division in *The American Foreign Service Journal*, IX, 468 (December, 1932).

otherwise. A glance at the roster of names of those who have served as chief of the Division will indicate that experience and training seem always to have been the basis of appointment. The first chief of the Division, Mr. Thomas C. Dawson, was an outstanding authority on Latin American affairs, had served as minister resident to the Dominican Republic, and was minister to Chile at the time that he was appointed chief of the Division. His successors have included such men as: J. Butler Wright, J. H. Stabler, Hallet Johnson, Leo S. Rowe, Sumner Welles, Francis White, Dana G. Munro and Walter C. Thurston, every one of whom was personally familiar with the Latin American field. The present chief, Edwin C. Wilson, had served as a foreign service officer in Chile and Honduras and as secretary to the American delegation at the Central American Conference of 1922 and the Fifth International Conference of American States at Santiago in 1923 before his appointment as chief of the Latin American Division in 1931.

Each officer in the Division is assigned a certain number of countries based upon the experience which he has had in the field rather than on the geographical grouping of the countries. Inasmuch as the Division is responsible for reviewing the despatches and telegrams from the diplomatic and consular officers stationed throughout Latin America, each officer reviews all correspondence coming from the countries assigned to him and indicates its distribution both within the Department of State and to other interested departments. In the present organization one officer is charged with Central America, one with Haiti and the Dominican Republic, two with Cuba (one specializing in sugar) and four or five with South America. The recent importance of exchange problems required the sending of a mission on this subject and a trained expert is now charged with matters of exchange.

As we have already indicated, this Division reports directly to an Assistant Secretary of State, at present Sumner Welles, who is also a specialist in the field. This Division also serves as the liaison office between the Government of the United States and the Pan-American Union. The latter prepares the agenda for the numerous Latin American conferences and the Division collaborates in this work as well as prepares the instructions to the American delegation.

The policy of reciprocal trade agreements sponsored by Secretary Hull placed a great deal of responsibility upon the officers of the Division inasmuch as the greater number of these agreements were with the Latin American republics. Two officers of the Division have found it necessary to devote their entire time to this matter

Dr William R. Manning, a specialist in Latin American affairs in addition to his assigned work for the Department is engaged in making available in published form the archive material in the Department on the relations of the United States with the Latin American nations.⁸⁰

5. *Division of Mexican Affairs*

The immediate proximity of Mexico to our southern border has always made relations between the two countries of particular importance. Boundary questions are constantly arising and any revolutionary activity south of the Rio Grande has an immediate repercussion to the north. American capital in huge amounts has entered Mexico to assist in the development of its vast natural resources and governments are called upon to protect the interests of their nationals. The final withdrawal of President Diaz from the political scene in 1911 after many years of absolute control ushered in a revolutionary period extremely threatening to American lives and property in Mexico. The ever-increasing volume of correspondence from Mexico in 1914 and 1915 placed such a burden of work upon the Division of Latin American Affairs⁸¹ that Secretary Lansing by a departmental order dated July 28, 1915, established the Division of Mexican Affairs.

Mr. Leon J. Canova, who had been a newspaper man in Cuba for many years and had served as a special agent in Mexico and as Assistant Chief of the Division of Latin American Affairs, was appointed chief. His assistant chief, Richard C. Tanis, is still serving after twenty years in the same position. The subsequent

⁸⁰ A three-volume work entitled *Diplomatic Correspondence of the United States Concerning the Independence of the Latin American Nations* is being followed by a twelve-volume work entitled *Diplomatic Correspondence of the United States Concerning Inter-American Affairs*, of which four volumes have appeared and the others are in preparation.

⁸¹ See article in *The American Foreign Service Journal*, IX, 426 (November, 1932); also sketch in *The United States Daily*, I, 3898 (January 11, 1927).

heads of the Division have for the most part been chosen from foreign service officers who had served at either diplomatic or consular posts in Mexico. The list includes such men as Mathew E. Hanna, Franklin M. Gunther, Arthur Bliss Lane, Herschel V. Johnson. The present chief, Mr. Edward L. Reed, had served in Buenos Aires, Panama and Havana and was assistant chief of Latin American Affairs when he was appointed in 1933 to his present post.

The routine work of the Division includes questions of protection, questions of claims and border questions embracing the Rio Grande and Colorado River problems in all their international phases. The following paragraphs from a brief sketch of the Division's work prepared for the writer give an idea of the details of the work of this Division.

The Division reviews carefully reports received from diplomatic and consular officers in Mexico concerning matters of importance in their respective districts. It is, of course, essential that these officers keep the Department and the Embassy at Mexico City currently and accurately informed regarding all important matters. . . . The information contained in reports from consular offices is coördinated in the Division and therefore the reports furnished are helpful only to the extent that they are based upon facts. The information thus carefully coördinated forms a ready reference for the Secretary in consultation on current decisions of importance.

If a disaster occurs in Mexico calling for relief, it is the practice of the Mexican Division to see to it that all information received from consular and diplomatic officers is transmitted to the American Red Cross, and it is the custom of the Red Cross to transmit funds for relief work through the Department, which in turn sends the money to the consular officers in the areas affected for the proper distribution.

•

One of the extra-routine functions which this Division has found it necessary from time to time to assume is the administration of the embargo on the shipment of arms and munitions to Mexico. Since the embargo does not prevent the use of explosives for legitimate industrial needs in Mexico, the Division must decide whether the shipment is permissible under the regulations. As a precautionary measure, a licensing system has been set up which requires the exporter to obtain a license from the Depart-

ment of State before any shipment of arms or munitions may be made.

Just as in the Division of Latin American Affairs, the chief of the Mexican Division reports directly to the Assistant Secretary of State in charge of Latin American matters. In fact, the Assistant Secretary coordinates the work of the two divisions.

6. Division of Eastern European Affairs

The Division of Eastern European Affairs,³² the youngest of the geographical divisions of the State Department, was established by a departmental order of October 10, 1922. In reality, however, the Division dates from October 16, 1917, when a section of the Division of Near Eastern Affairs was created to take care of the increased volume of work entailed by the developments of the World War and the Russian Revolution. Although the section was called Russian, it had jurisdiction over Rumania as well

This section was converted into a separate division on August 13, 1919, and designated as the Division of Russian Affairs. Mr. Basil Miles, a career officer who had served in Russia both before and during the War, and who had also acted as secretary of the Root Mission to Russia in 1917, was made head of the Russian Section and later acting chief of the Russian Division. He was followed by DeWitt C. Poole, another able foreign service officer who also had served in the American embassy at Russia. Mr. Poole was appointed chief of the Division of Eastern European Affairs when it was established in 1922 under its new name. He was succeeded in September, 1923, by Evan E. Young, who had recently returned from service as American Commissioner to the Baltic Provinces. Upon his appointment as minister to the Dominican Republic, the assistant chief, Mr. Robert F. Kelley, a career officer who had served in the Baltic states and Finland, and two years in the Division, was promoted to his post. Mr. Kelley is still chief and although he has been criticized as having opposed the recognition of Russia, Secretaries Hughes, Kellogg and Stim-

³² See article in *The American Foreign Service Journal*, X, 54 (February, 1933).

son seemed to have had similar views and Secretary Hull has not found recognition an unmitigated blessing.

As at present organized, the Division has an assistant chief and five assisting officers. Of these all but one, an economic adviser, are foreign service officers who have had experience in the Eastern European area. The jurisdiction of the Division includes Estonia, Finland, the Free City of Danzig, Latvia, Lithuania, Poland and the Union of Soviet Socialist Republics.

Insofar as its work is concerned with the post war states formed for the most part from the old Russian Empire, the work of the Eastern European Division has been very much like that of the other geographical divisions. The principal difference has been that more preliminary spade work had to be done. Inasmuch as no treaties of any sort existed between the United States and these countries, agreements of various types had to be negotiated and put into effect. Since comprehensive commercial treaties are complicated and difficult to negotiate, temporary arrangements had to be made. At the present time treaties of friendship, commerce and consular rights with all of the Baltic states except Lithuania have been signed and ratified. Numerous other agreements covering extradition, arbitration and funding of debts have been concluded. Finland holds the unique position of being the only European state which has met in full and on time the payments called for by her debt refunding agreement. The Division played a leading part in all of these negotiations.

As regards American relations with Russia, the Division was placed in a somewhat anomalous situation. The refusal of the various American presidents to recognize the post war Russian government by no means meant that all relations between the Soviet government and the United States were ended. In fact, the Department of State not only did not put obstacles in the way of trade between the two countries, but rather endeavored to reduce all difficulties to a minimum. Its sole requirement was that corporations and individuals trading with Russia did so wholly upon their own responsibility and at their own risk.

Furthermore, the policy of non-recognition had to be grounded upon facts which could be quickly and cogently marshaled. As a result, the Division had to be accurately informed in the most com-

prehensive fashion as to the various phases and trends of the Russian situation. It therefore made special efforts to collect every sort of available material covering every aspect of the communist experiment. Original documentary sources, secondary printed material, reports from all diplomatic and consular officers in nearby countries and every other source available were utilized to keep currently and exactly informed

This wealth of factual material was just as useful when the decision was made to reverse the policy and grant recognition to the Bolshevik government. Following the granting of recognition, the Division was called upon to help frame a permanent settlement of the outstanding differences, to aid in establishing an embassy and consulates and the very difficult problem of finding suitable accommodations. It is interesting to note that subsequent developments have brought about the combining of the embassy and consulate general into a single establishment in Moscow, a procedure which had already been successfully employed in Finland, Lithuania and Estonia.

The Eastern European Division has also found it advisable to take advantage of the regulations permitting the training of foreign service officers for language assignments and a half dozen officers have already completed their course of study and have been assigned to posts in the Eastern European area.

E. THE OFFICE OF THE LEGAL ADVISER

The name Legal Adviser for the legal division of the State Department is to a certain extent a misnomer inasmuch as the work is far broader than the name implies. Not only does this Office give legal advice to the members of the State Department, but it regularly represents the government before international tribunals and courts of claims. It must be prepared to support with cogent arguments one administration on its policy of non-recognition of a foreign government and make an equally strong case for recognition by the next. It must protect the executive in his direction of foreign policy from the constant encroachments on the part of the legislative branch.

It is interesting to note that in the early days of the Department, the Secretary of State handled the legal work personally

and Jefferson, who was a well trained lawyer as well as a remarkable statesman, laid down policies with respect to neutrality³³ and recognition³⁴ of governments which are followed to this day. The first law officers date from 1848, and were called examiners of claims, while from 1891 to 1931 the law officer was called Solicitor for the Department of State while he was at the same time nominally under the Department of Justice. The present status of the Office is based upon the Act of Congress of February 23, 1931.

The Office of the Legal Adviser at the present time consists of the Legal Adviser, an administrative assistant and twenty-three assistant legal advisers. Mr. Green H. Hackworth, the present legal adviser, has been connected with the legal work of the Department of State for about twenty years. He served as Solicitor of the State Department for six years and has held his present position since 1931. The corps of lawyers who assist the legal adviser is regularly confronted with so many types of cases of international law that it may well be denominated an organization of specialists. There is not a law office in the country to which more varieties of legal cases are referred. They run the gamut of every branch of law—international, admiralty, federal, state, and common law. Not only must the Legal Adviser's Office handle the strictly legal problems presented to it, but it must also give advice to the Secretary of State, his assistants and the heads of political and administrative divisions on mixed questions of law and policy.

For the most part, the work is allocated to the more experienced men according to geographical areas, distributed approximately on the same basis as those in the Department of State. For example, a recent case involving an alleged breach of contract in a railway concession in Peru would be assigned to one of the assistants specializing in the Latin American field. On the other hand, certain types of cases which come before the Department constantly and in great numbers, such as claims, extradition, and citizenship are assigned to specialists in these fields.

There are various ways of handling the problems presented.

³³ See John Bassett Moore, *Digest of International Law* (Washington, 1906), VII, 880-881, 955.

³⁴ *Ibid.*, I, 120.

Sometimes a memorandum is prepared for the Secretary or the Assistant Secretary; again the action may take the form of a note addressed to a foreign diplomatic mission in the United States or an instruction to one of our missions abroad. A Senator may introduce a resolution inquiring into the religious policy of the Mexican government as it affects American citizens and the State Department finds it necessary to send a diplomatically worded letter pointing out that the President, rather than the Congress, is given the authority by the Constitution to direct the foreign policy of the United States.

The problem of claims takes a considerable part of the Legal Adviser's time. In the first place, the legal phase of negotiations leading up to the signature of agreements for the submission of claims to arbitration must be handled. Then the preparation and presentation of the cases follows. During the years 1930-1933 inclusive, the Legal Adviser's Office conducted five international arbitrations in which it received on behalf of American nationals upwards of \$700,000. In connection with each of the arbitrations there was voluminous correspondence incidental to the collection of evidence in the foreign country where the claim arose, as well as considerable diplomatic correspondence and numerous conferences at the State Department and in the foreign capital as to the terms of the arbitration, the selection of arbitrators, rules of procedure and similar questions. A recent claim which the Office defended successfully amounted to over \$3,000,000 which, if the government had lost, would have opened the door to a number of other large claims of a like character by European powers. The Office has compiled a complete register of outstanding international claims which permits the formulation of an intelligent policy with regard to their systematic consideration and settlement.

The services of the Office are used in the drafting of treaties and agreements of a legal and technical nature, such as claims, conventions and treaties pertaining to naturalization and extradition. The legal implications of treaties, their interpretation, their violation by other countries, the limits to which the treaty-making power may extend consistent with the Constitution and the laws of the United States, are passed upon by the Legal Adviser's Office.

Inasmuch as legal advisers are not maintained by the Depart-

ment of State in foreign countries,³⁵ the more complicated legal problems arising in the American embassies, legations and consulates abroad are referred to the Legal Adviser. These questions may range from the probate procedure in Morocco to the real property laws of Poland, from the question of our right under international law to protect American stockholders in a foreign corporation to the legality of embargoes, from the effect of foreign laws and decrees in existing stipulations to the question whether a court decision against an American national in a foreign country constitutes a "denial of justice" under international law. Questions are constantly arising concerning the rights and privileges of diplomatic and consular officials abroad and of foreign diplomatic and consular officers in the United States.

The Office of the Legal Adviser has much to do in cases of extradition. A preliminary finding must be made as to whether a demand shall be made on a foreign government for the extradition of a fugitive from the justice of the United States. The treaty governing the case, the laws of the several countries and the states of the United States must be examined. In these cases the duties of the office are essentially juridical in character.

In fine, the Office of the Legal Adviser must attend to the protection of the government's interest in a boundary dispute which may jeopardize the national domain, and at the same time satisfy Mr. John Citizen that his claim which may have very little merit in law is receiving the most careful possible attention. All cases of protection of a public nature, whether large or small, important or insignificant, on behalf of the government or in support of a citizen, must be given impartial and careful consideration by this office.

F. THE OFFICE OF THE ECONOMIC ADVISER

The structure of foreign policy has always been built to a considerable extent upon economic foundations, even though its superstructure and façade might appear almost entirely political. But since the industrial revolution, states have not only not con-

³⁵ The term *counselor of embassy* or legation should not be confused with the term *Legal Adviser*; the former designation refers to the highest ranking secretary in the more important posts.

ceased imperialistic impulses, but have justified them vigorously upon the basis of economic necessity. Foreign policies such as "freedom of the seas", "a place in the sun", "an outlet to open water", are clearly predicated upon economic necessity. The United States, which has never conceded its imperialistic tendencies, has repeatedly justified "dollar diplomacy" and "the open door" by asserting the necessity for protecting its foreign trade.

The problems of foreign policy in the post war period have become increasingly economic in character. The most difficult problem of the peace conference was the reparations settlement and it was more than two years after the political treaties were negotiated before the Allies were able to agree upon the reparations bill. Even then the agreement was not to endure for long.

The problem of war debts is still plaguing world chancelleries, and tariffs and trade agreements, problems of stabilization and exchange are everywhere recognized as crucial questions which foreign offices must attempt to settle, even though the technical difficulties and complexities appear almost insoluble. The advice of the technical expert in economic matters, therefore, is recognized as a vital adjunct to the formulation of policy and no foreign office staff could function satisfactorily without it.

As originally established in the Department of State, the economic organization was largely statistical, and for many years was known first as the "Statistical Office" and later as the "Bureau of Statistics". However, its work soon covered such a broad field that in 1897 a more accurate title, the "Bureau of Foreign Commerce", was bestowed upon it. When it was found advisable to set up a separate Department of Commerce in 1903 and the Bureau of Foreign Commerce was assigned to it, the State Department, unable to function properly without expert economic advisers, set up the Bureau of Trade Relations. In 1912 the Bureau's name was changed to the "Office of Foreign Trade Adviser"; in 1915 it became "Foreign Trade Adviser", in 1916 "Adviser on Commercial Treaties"; in 1917 "Foreign Trade Adviser" again. The title of the office during this period indicates that it was primarily concerned with trade matters.

After the World War, however, when the international economic and financial problems became more varied and complex, a number of economic experts were employed in the Foreign

Trade Adviser's office to advise upon them. These advisers were assigned to tasks upon a regional basis. In 1921 it was decided to have the geographical divisions deal with both political and economic matters, so that most of the regional specialists were allocated to corresponding geographical divisions. At the same time the Office of the Economic Adviser was reduced in size and its experts given assignments on current economic and financial matters which were being considered by the Department of State.

The Office has not changed radically in either organization or functions since its reorganization in 1921. Professor Arthur C. Millspaugh was the first incumbent of the office, and he was succeeded by Arthur N. Young, both of whom were trained economists. The present Economic Adviser, Herbert Feis, who has held the office since 1931, has had a wide experience both at home and abroad in dealing with current economic and financial questions. His assistant, Frederic Livesey has served as either Assistant Economic Adviser or Acting Economic Adviser since 1928.

The duties of the Office are varied in the extreme. All economic problems which face the Department come sooner or later to this Office. For that reason, the Economic Adviser must confer with heads of the various geographical divisions as well as with the Secretary of State and his advisers when the occasion warrants. The recent strenuous efforts of nations to achieve national economic self-sufficiency by imposing every sort of restriction upon international commerce has required original and intensive study to meet the situation. As new schemes of control are perfected, new methods of protection must be devised.

As organized at present, the officials under the chief specialize in certain problems and commodities. One officer is charged with questions of foreign debts, defaulted bonds, financial matters and trade agreements; another is concerned with foreign exchange, questions of the Philippines and the Far East and its commodities, such as rubber, and cocoanut oil; a third is charged with tariffs and trade regulations; a fourth with shipping and clearance problems. Due to the technical character of the work, memoranda are found more useful than letters.

As officially stated, the office "gives advice and recommendations to the Department on questions of general economic policy; unifies and coordinates economic matters within the Department,

establishes and maintains liaison with the various economic bureaus in other departments, handles economic cases which have no regional character or which overlap geographical divisions." ³⁶

In a recent scholarly survey of the organization and work of the Economic Adviser's Office Professor Ellery C. Stowell points out that the Economic Adviser in addition "to answering requests for information from his chief must assume what is really an independent responsibility in discovering the significance of new trends and movements in the economic world. Before private individuals or officials who are most directly concerned are fully aware of what is happening, he must catch the drift and give a warning of impending danger or indicate the advantageous course to steer. He is the lookout that warns the captain of the hazard or points out the safest channel." ³⁷

G. THE COMMERCIAL OFFICE

The Commercial Office ³⁸ dates its beginning to the act of August 16, 1842 which required the Secretary of State to submit to Congress an annual report of changes in foreign commercial systems and of such information obtained abroad by consular officers as might be deemed of value to the public. Inasmuch as this work was largely of a statistical nature the first office established in 1856 specifically to carry on this work was named the Statistical Office. This title was retained with slight variations from 1856 to 1897 when it became the Bureau of Foreign Commerce. In 1903 with the establishment of the new Department of Commerce the Bureau of Foreign Commerce was transferred to it and a Bureau of Trade Relations set up in the Department of State. This Bureau became the Office of the Foreign Trade Adviser in 1912 and no further changes of importance occurred until 1921. At this time a complete reorganization took place. Some of the trade advisers were transferred to the geographical divisions, the Office of the Economic Adviser to deal with current economic and financial matters was organized, and the section concerned

³⁶ *Register of the Department of State*, July 1, 1935 (Washington, 1935).

³⁷ Ellery C. Stowell, "The Economic Adviser of the Department of State," *International Law and Relations Digest*, IV, 20 (April 10, 1935).

³⁸ See articles by F. T. F. Dumont, *United States Daily*, I, 4030 (January, 22, 1927), and by James J. Murphy, Jr., *The American Foreign Service Journal*, XI, 124 (March, 1934).

with commercial reporting was transferred to the Office of the Director of the Consular Service and designated Consular Commercial Office. No further changes have occurred and the Office is still under the general jurisdiction of Assistant Secretary of State Carr.

Since being organized as the Consular Commercial Office the direction has regularly been in the hands of foreign service officers of career. Its first chief was Harry A. McBride, a consular officer with wide experience who is now assistant to the Secretary of State. He was followed by Addison Southard, now Consul General at Stockholm, who was in turn succeeded by Consul-General Frederick T. F. Dumont who has recently retired. The next incumbent was Consul-General John G. Erhardt who is now stationed at Hamburg. The present chief, James J. Murphy, Jr., who assumed charge of the Office January 13, 1931, resigned from the foreign service to take the position as a permanent appointee. He is assisted by an economic analyst, an administrative assistant and ten clerks.

Among the various duties assigned to the Consular Commercial Office are the following: (1) to draft instructions to consular officers abroad concerning commercial and trade reporting; (2) to receive, censor, grade and criticize commercial and economic reports and trade letters; to distribute these reports or the data contained in them to other departments and agencies of the government and in some cases to private organizations; (3) to transmit with appropriate instructions to consular officers abroad requests from other departments interested in the promotion or the protection of American trade; (4) to serve as a liaison office of the Department of State with the Department of Commerce, the Department of Agriculture, and the Treasury Department in all matters involving the cooperation of consular officers in procuring economic and commercial data; and (5) to certify to the Division of Foreign Service Personnel for entering upon their efficiency record the relative rank of each foreign service officer in commercial work.

The Office distributes information received from the field to some forty-five governmental agencies. The Department of Commerce receives by far the greatest amount and during the year 1934 the Office transmitted to the Department of Commerce 15,-

or 13 World Trade Directory Reports, 33,539 Trade Letters, and 6,911 Trade Lists. It should be noted that since the act of June 30, 1932, both the World Trade Directory Reports and the Trade Lists are on a fee basis which has reduced materially the number demanded but has probably enhanced their value.

Under the Coördination Agreement of August 5, 1933, signed by the Secretary of State and the Secretary of Commerce certain additional services of a commercial nature were assumed by the Department of State for the Commercial Office and for the consuls in the field; for instance, all instructions from the Secretary of Commerce to commercial attachés and trade commissioners were henceforth to be transmitted through the Secretary of State. The Commercial Office is charged with this function. The Consular Service was to have sole jurisdiction over all trade inquiry letters and replies to them. Such replies are received and transmitted by the Commercial Office. Both Departments were authorized to discontinue special market surveys for individual firms and special negotiations or transactions in behalf of individual firms.

Since 1933 the trade opportunity work has been put on a more practical basis with less emphasis placed upon the number of opportunities and more on the value of the opportunity to American trade. There is no advantage to the volume of American trade by merely diverting trade from one firm to another. But in spite of this drastic limitation the Commercial Office handled 1,520 trade opportunities for the year 1934.

H. THE DIVISION OF TRADE AGREEMENTS

The Trade Agreements Division is an organization whose permanent character will undoubtedly depend upon the success of the policy of reciprocity trade agreements undertaken by the administration of Franklin Roosevelt. Under these circumstances it may perhaps be regarded as a temporary organization.

The so-called "Trade Agreements Act" was passed on June 12, 1934, to enable the United States to attempt to recapture its foreign markets and to put it on an equality with other powers in the negotiation of trade agreements. This Act authorized the Executive to enter into trade agreements with foreign countries

without the necessity of referring such agreements to the Congress for its approval. Obviously, the first task was to set up machinery which could deal with the intricate problems of commodity exchanges and tariff adjustments.

As a preliminary step, the President created an interdepartmental policy committee representing all departments interested particularly in foreign trade. This committee, known as the Executive Committee on Commercial Policy, is under the chairmanship of an assistant secretary of state and consists of representatives of the Departments of the Treasury, Interior, Agriculture and Commerce, the Tariff Commission and the Office of the Special Adviser to the President on Foreign Trade.

This committee, however, merely decides on important questions of commercial policy. The organization primarily responsible for the trade agreements program is called the Interdepartmental Committee on Foreign Trade Agreements, and is under the chairmanship of the chief of the Trade Agreements Division of the Department of State. On this committee are representatives of the Department of State, Agriculture, and Treasury, the Tariff Commission, the Office of Special Adviser to the President on Foreign Trade, the National Recovery Administration and the Agricultural Adjustment Administration. In this representation the information and facilities of all the governmental agencies interested in tariffs and other measures affecting our foreign trade are utilized and coordinated.

The preliminary and technical work of negotiating trade agreements is assigned to interdepartmental country committees, one for each country. The State Department utilizes as its representatives on these country committees officials of the various geographical divisions concerned.

The Department of Commerce makes the preliminary studies and recommendations for consideration by the country committees regarding concessions to be asked from foreign prices while the Tariff Commission makes similar studies and recommendations regarding concessions to be offered foreign countries. The country committees make tentative draft recommendations based upon these findings which are submitted to the Committee on Foreign Trade Agreements for review. On the basis of recommendations thus formulated the Department of State initiates ex-

ploratory conversations with the governments of the countries with which trade agreements are contemplated. If mutually advantageous trade agreements seem feasible, public announcement is made that negotiations are to begin and interested persons are permitted to present their news to the Committee for Reciprocity Information. Such views, criticisms and suggestions are digested and submitted to the country committees.

The Trade Agreements Division is charged with the work of coördinating the efforts of the several interested divisions of the State Department and other governmental agencies and they are submitted to the Secretary of State and President through the Assistant Secretary of State in charge. At the present time the Trade Agreements Division is under the direction of Dr. Henry F. Grady, dean of the College of Commerce of the University of California. Dr. Grady has had considerable previous experience in the field of international trade. He served as United States trade commissioner in Europe at the close of the War and later as commercial attaché at London and The Hague. He also served for a year as acting chief of the Division of Research of the Bureau of Foreign and Domestic Commerce.

Inasmuch as the Trade Agreements Division was created by executive order under an act of Congress which is of limited duration, the permanency of this section is not assured. Nevertheless, the great value of the work has already been shown. By the first of January, 1936, trade agreements had been signed with nine states including Cuba, Brazil and Canada and nine other such agreements were in various stages of negotiation. These agreements which, except for the Cuban treaty, are based upon most favored nation treatment, constitute a part of a program to break down the artificial trade barriers which have so seriously impeded international trade in the wake of the World War.

Just as soon as ratifications take place, the texts of all trade agreements are being published in the Executive Agreement Series.

CHAPTER VI

THE ORGANIZATION AND WORK OF THE DEPARTMENT OF STATE

II. Office and Divisions Largely Concerned with Administration

A. THE OFFICE OF THE CHIEF CLERK AND ADMINISTRATIVE ASSISTANT

There has been a Chief Clerk in the Department of State ever since the Department was organized in 1789. For many years he acted as Undersecretary of State when his chief was absent as well as serving as chief executive officer. In the early days of the Republic the advantage of a certain degree of permanence in the office was recognized. Daniel Brent held the office from 1817 until 1833, a period of sixteen years, while Robert S. Chew served from 1855 until 1873, a term of eighteen years.

The manifold duties of the position in the pre-War period are aptly described by a former foreign service officer as follows: "The hardest work of all, in one sense, falls on that much abused official, the Chief Clerk, who has to sit in a public room, accessible to everyone; must inspect every paper that comes in or goes out; must carry in his head the whole business of the Department in all its details; must see everyone who calls, assist those who have legitimate business, listen to the others and give them a soft answer but no information, and withal be patient and keep his temper." ¹

Several well known figures in American diplomacy have held the office of chief clerk of whom perhaps the most notable were Nicholas P. Trist who signed the Treaty of Guadalupe Hidalgo

¹ Eugene Schuyler, *American Diplomacy* (New York, 1895), 16.

with Mexico and William W. Rockhill whose name will always be associated with the Open Door Policy in the Far East. Those in the Department at the present time who have held the position are Assistant Secretary of State Carr; Harry McBride, Assistant to the Secretary of State; Edwin C. Wilson, Chief, Division of Latin American Affairs; William McNeir, Chief, Bureau of Accounts, and Percy F. Allen, Chief of the Appointment Section.² About one-half of the officers who have served as Chief Clerk have been foreign service officers of career and the present Chief, Clinton E. MacEachran, carries on this tradition. When appointed to his present post in 1932 he had already had twenty-two years' experience either in the Department or abroad.

At the present time the Chief Clerk is in reality the chief Administrator of the Department. His Office ranks next to the Division of Communications and Records in size and has slightly more than a hundred persons on its rolls.

As the name implies, the Chief Clerk and Administrative Assistant is charged with the general administrative duties of the Department. This includes administration of the personnel of the Department, fiscal matters, purchase and care of supplies, supervision of the property and allocation of the office space for the Department.

The personnel administration is a very important function. Inasmuch as the great majority of the officials in the Department are under civil service, efficiency ratings must be prepared and promotions recommended. The Chief Clerk serves as vice chairman of the Board of Appeals and Review which makes the final decision on efficiency ratings. The head of the appointment section passes personally upon all candidates who apply with civil service rating.

Reports required by the Civil Service Commission must be prepared, oaths administered and bonds completed for appointed officials, and correspondence carried on pertaining to all matters of appointment. A very effective and satisfactory system of leaves of absence has been worked out by this office which is made responsible for granting such requests or expressing disapproval. This

² See article on the Office of the Chief Clerk and Administrative Assistant in *The American Foreign Service Journal*, IX, 266, 308 (July, August, 1932) by the present Chief Clerk, Clinton E. MacEachran.

office also keeps the civil service retirement records for the Department and performs the complicated clerical work entailed in carrying out the provisions of the Retirement Act of May 29, 1930.

The appointment section is further charged with the preparation of commissions for all members of the American foreign service from ambassadors to vice consuls not of career. *

Another administrative function of considerable importance undertaken by the Chief Clerk's Office is that pertaining to fiscal matters. The appropriations for salaries is a vital question, for if a division head needs an additional officer, he must first find out if there are funds available. This office has the information on hand and can supply it immediately. In fact, the Chief Clerk's Office administers the two annual Congressional appropriations for the Department—the first for salaries and the second for contingent expenses. Perhaps of even greater importance is the exceedingly careful technical work required to prepare the budget estimates for the appropriations.

As might be expected, the administration of all the property of the State Department is in this office. It inventories the properties and makes contracts for purchases of new equipment and supplies. It maintains a stock room of Congressional and other government publications and distributes these as well as the regular publications of the Department. Space in the Department of State building is now at a premium and all allocations for space come through this office. The State Department at the present time has about 350 rooms for its 750 employees, which means a little more than 50 per cent of the total office space in the building. The War Department still holds the rest and will continue to do so until new quarters are obtained.

The Stenographic Section of the Office comprises some fifty employees competent to do stenographic work in English and foreign languages, to do mimeographing, multigraphing and engraving and to make photostatic reproductions. This section supervises the preparation of full powers, the preparation for signature, ratification and proclamation of all treaties, the engraving of ceremonial correspondence, letters of credence and recall and the multigraphing of circular instructions to the foreign service field. The Office does about 75 per cent of all stenographic and typing work done in the Department. Its force is constantly

called upon by the various divisions and bureaus to assist their own staffs. Over 9,000 hours of dictation were thus given during the fiscal year ending 1934. During this same fiscal year, this section typed 265,949 pages, and in the duplicating work made 1,697,996 impressions, 606,477 multigraphing impressions and 32,331 photostatic copies. The girls in this office must expect to work nights or holidays without extra compensation if emergencies arise. When the Lytton Report came in, the whole force began work at 7 o'clock on a Sunday morning and by 2 o'clock in the afternoon they had completed some 450 mimeograph copies ready for delivery. When it is realized that this report consisted of some 200 pages single spaced legal size, one can appreciate the remarkable character of the achievement.

The Mail Section of the Chief Clerk's Office in its organization and work is comparable in every way with a United States Post Office of the first class. In addition to receiving, distributing and dispatching all official mail which comes to the Department, it supervises a local messenger delivery service of communications intended for foreign embassies and legations in Washington. But of still greater importance, it is responsible for the receipt and dispatch of diplomatic pouches to and from the foreign missions of the United States.

This section handles about fifty diplomatic pouches daily to and from foreign posts, and routes their departures in such a way as to maintain a semi-weekly service to the most important posts. In order to accomplish this regular service, foreign mail vessels are used when necessary. The records of this section show the exact location at all times of the various pouches in transit and as far as can be ascertained no pouch has ever been lost except through some sort of disaster. To insure absolute protection, the pouches are not only locked and sealed but all first class and confidential communications are placed in an inner pouch locked by a special rotary lock which cannot be opened without jumping a digit in its exposed number. The original number is always placed inside the pouch and checked by the officer opening it. Pouches arriving in New York are under jurisdiction of the Post Office Department until they reach the Department of State in Washington, but it is customary for a representative of the American embassy in London to meet boats carrying pouches at

either Southampton or Plymouth. In distributing mail, all personal mail is sent direct to the addressee while all other mail is distributed through the Division of Communications and Records.

An important function of the Chief Clerk's Office is the authentication of documents such as powers of attorney, affidavits of nationality and identity; domestic and foreign documents bearing the seals of the various states and signatures of the governors of every state in the Union are kept on file at the Department. The present Chief Clerk, Mr. MacEachran, has estimated that he signs his name and that of the Secretary of State to about 10,000 documents a year to which the Seal of the Department of State attests the authenticity of the official signature. Strangely enough, this service, which is almost identical with the notarial service performed for a fee of \$2 by foreign service officers abroad, is done free of charge by the State Department.

The Seal of the United States is also under the jurisdiction of the Chief Clerk's Office and is kept in a large, locked, mahogany case in his office. Only the obverse side of the seal has ever been cut or used owing to the exceedingly inartistic design on the reverse side. The Great Seal is only affixed to documents which have been signed by the President. At the present time the seal is affixed to presidential proclamations, treaties and agreements with foreign powers, commissions of all diplomatic and consular officers nominated by the President, to commissions of cabinet members, ceremonial communications from the President to heads of foreign governments,³ exequaturs of foreign consuls appointed by their heads of state, and extradition warrants signed by the President to receive persons surrendered by foreign governments.⁴

B. THE DIVISION OF FOREIGN SERVICE ADMINISTRATION

The Division of Foreign Service Administration is one of the largest divisions in the Department and certainly no other division is responsible for a more varied number or type of activities.⁵ This Division is in reality the direct successor to the Diplo-

³ In this case the seal is affixed to the envelope

⁴ For the full story of the Great Seal see Gaillard Hunt, *The History of the Seal of the United States* (Washington, 1909).

⁵ See article by Herbert C. Hengstler in the *United States Daily*, I, 3982 (January 18, 1927).

matic Bureau, the Consular Bureau and to the Office of Consular Personnel, all three of which were abolished in 1924 after the passage of the Rogers Bill. Mr. Herbert C. Hengstler, who had been Chief or Acting Chief of the Consular Bureau since 1907, was appointed Chief of the Division of Foreign Service Administration when it was created and has served as its Chief ever since.

Owing to the varied character of the Division's work, it is composed of several sections of which the Administrative Section is by far the largest. This Section has general charge of diplomatic and consular personnel in the foreign service. When it is remembered that the Diplomatic and Consular Service of the United States on January 1, 1934, consisted of 702 officers, which with the clerical and stenographic personnel required to carry on the work amounted to a total of approximately 4,000 persons, the magnitude of the task is apparent. The Administrative Section keeps an up to date card index file of all foreign service officers, also files of post reports concerning conditions of living. Another phase of foreign service administration facilitated by this Section is the attempt to pay the foreign service personnel abroad in re-valued dollars so that no injustice shall result to the officer, a problem requiring very elaborate exchange equalizations. Complete information is also available in this Section regarding leaves of absence of foreign service officers.

The Administrative Section prepares estimates and data for the Bureau of the Budget, and from the appropriations granted it allots funds for rent, clerk hire, telegrams, office equipment, and other supplies needed at the various posts abroad. Inasmuch as the United States as yet owns comparatively few of the buildings necessary to house its diplomatic and consular representatives abroad, the leasing of suitable quarters or approving of such transactions is still a considerable task.

A Property Section of the Division is charged with keeping a complete inventory of all American property abroad. This section is responsible for all disposition of property, replacements, and repairs of buildings. Breakages are usually charged to the officer.

A Shipping Section receives and grades all shipping reports from American consular officers. It is also charged with cases

of protection and relief of American seamen. Many services for promotion of the interests of the American Merchant Marine are performed by this Section. Vital statistics of Americans abroad, records of American divorces in Paris and Mexico are a part of its data on file.

A Notarials Section, as its name implies, has to do with the taking of testimony and the administration of oaths and similar notarial services. This section answers all local inquiries regarding the procedure of taking depositions abroad. Where the local laws or treaties permit, this section handles the affairs and settles the estates of American citizens dying abroad. Many technical legal points arise in such cases which can only be settled by an expert with long experience in the field. Mr. Glenn A. Smith, present head of this section, is a lawyer who has served for over twenty-five years in the Department.

The Documentation Section is charged with the documentation of merchandise invoices. All shipments from abroad valued at over \$100 must be accompanied by a consular invoice which certifies among other things that the value listed is the actual value of the merchandise. This section must instruct consular officers regarding changes in tariff regulations and in Treasury decisions. Questions of quarantine, plants and animals, as, for example, the entrance of circus animals, comes within its jurisdiction.

The Welfare Section which handles all cases of welfare and the whereabouts of Americans abroad has many interesting problems: Americans disappear while traveling abroad and the Department makes every effort to trace them when requested by relatives or friends. At the outbreak of the World War it was estimated that some 300,000 to 400,000 Americans were in Europe and as the whereabouts of fully one-half of them was of interest to their relatives, this section worked night and day. Upon the occasion of any great catastrophe in foreign lands, this section keeps in touch with the situation and renders all possible aid to Americans affected. The repatriation of insane Americans and the bringing back of the remains of Americans dying abroad is a part of its functions.

The Miscellaneous Section has many diverse duties. It takes care of requests for the assignment of military, naval, and com-

mercial attachés, arrangements attending the visits of American warships to foreign countries and for scientific expeditions abroad, and the rendering of customs courtesies to foreign diplomatic officials. It is charged with correspondence regarding extradition, letters rogatory, crank letters, letters concerning fictitious estates, in fact, all miscellaneous letters not coming within the jurisdiction of other Divisions. It looks after cases of the Veterans' Bureau and pensions, and in addition compiles information for other departments. The diplomatic pouch service between the United States and foreign countries falls under its jurisdiction and it directs the Despatch Agencies in New York, New Orleans, San Francisco and London. The three Foreign Service Fiscal District Accounting and Disbursing Offices in Paris, Mexico City and Ottawa are under its jurisdiction.

The Division of Foreign Service Administration has been aptly termed the "clearing house of the Department of State."

C THE DIVISION OF COMMUNICATIONS AND RECORDS

The Division of Communications and Records was until 1931 known as the Bureau of Indexes and Archives. Its new title is better in that it indicates that this division is a living organism rather than the mortuary of archaic or obsolete documentary materials. Actually this division is the distributing and filing agency of the Department. It receives, records, classifies, distributes and preserves the correspondence, written and telegraphic, of the Department. It is the vital link between the foreign service in the field and the officers of the Department. It has handled over a million pieces of mail and fifty thousand telegrams in a single year. It not only sends each communication to the proper person, but it must be able to find it for him again at a minute's notice at any time in the future.

To a considerable extent the Division of Communications and Records, or D.C.R. as it is commonly called, is organized upon somewhat the same basis as the Department of State. It has geographical sections corresponding to the geographical divisions in the Department, and some of its administrative sections such as passport, commercial and conference sections correspond to similar divisions in the Department.

To describe the work of this division we should logically begin with the mail section which opens, analyzes and distributes all diplomatic, consular and other official mail received by the Department of State. After being opened, a piece of mail is sent to the section of the D.C.R. where it would seem to belong. The head of this section reads the communication carefully and classifies it in accordance with the Department's system of classification. At the same time a symbol of the office or division to which it is to be sent is placed in the right hand corner. Before it is sent, however, it is turned over to a record clerk who makes a brief description of it for filing, as well as an index card. If previous correspondence is referred to or seems relevant to take proper action, the file and search clerk withdraws such papers from the file and attaches them to the piece of correspondence. The piece then goes to the review section for checking and thence to the office or division which should handle it. If it goes to several offices all are noted, and each time the piece returns to D.C.R. and starts out from it. Once it has completed its routing it is returned and filed in its proper place in the permanent archives.

In order to classify, distribute and file properly the vast quantity of correspondence which reaches the Department of State, something like 125 chiefs of sections and clerks are constantly employed in the Division of Communications and Records. In addition to mail and five geographical sections, corresponding to those in the Department, there is a passport, commercial, immigration, personnel, claims, conference and miscellaneous section.

The passport section has a great deal of work to do because the requirements for passports since the World War has been so widespread among the states. This division classifies, records, indexes, routes and files all correspondence relating to passports. From March to July, yearly, the passport section clears an average of 1,000 passport applications a day.

The conference section takes care of all correspondence relating to international conferences and congresses, multilateral treaties, League of Nations matters, and the World Court.

The miscellaneous section takes care of all correspondence relating to the internal affairs of the United States. For instance, liquor smuggling under prohibition gave this section considerable to do—the *I'm Alone* case, for example, takes up considerable

filing space. All transitory matters, questions and correspondence relating to visits and tours—the awarding of medals or gifts to foreign heroes are regarded as miscellaneous.

The Peace Conference section is a temporary agency organized to put in order, bind and index the records of the Paris Peace Conference. It has finished the binding and the result is a magnificent set of records in 537 volumes covering the entire work of the Peace Conference extending from December, 1918, to January, 1920. A somewhat similar work is being carried on for the vast collection of documents of the Foreign Trade Board.

The League of Nations section is in reality an archive section where every document and publication of the League of Nations has been filed and indexed. The publications section catalogues all the foreign publications received by the Department and files them.

The telegraph section is a small but important part of the Division, which not only receives and sends all telegrams but codes and decodes all messages. Originals of incoming telegrams are typed on yellow paper, recorded and sent to the proper division for action while mimeographed copies on white paper are sent to the offices which might be interested. Outgoing telegrams are handled the same way, except green paper is used for the originals and pink for the copies. It should be noted that all codes and ciphers used in the Department's intercourse with its representatives abroad are built in this section and, contrary to allegations sometimes made, it is exceedingly rare when the key to a code has been discovered.

A telephone service, twenty-four hours a day, takes care of interdepartmental, outside, long-distance and trans-oceanic telephone calls.

This division is the largest in the Department and at the present time it has 150 employees and four vacancies. The chief of the Division of Communications and Records is David A. Salmon, who entered the Department of State in 1906. During his thirty years of service Mr. Salmon has been an archivist and has been chief of the Division of Communications and Records since it was established in 1931.

During the fiscal year 1934 this division recorded 554,578 pieces of incoming correspondence and 195,813 of outgoing. Dur-

ing the same period of time the telegraphic messages received and sent numbered 36,138, which meant 2,129,239 groups and words. But perhaps most important of all, some 104,228 requests for information from the records were received during this period, all of which were answered, even though in many instances extensive research work was required. It is not difficult to understand why this division has been called the heart and circulating system of the Department of State.

D. THE OFFICE OF COÖRDINATION AND REVIEW

As we have already noted, the Office of Coordination and Review ⁶ is a unit in the Department's organization which was made necessary by the sudden increase in correspondence entailed by the outbreak of the World War. This burden of work became very much heavier when the United States entered the conflict. Previously two officials, Mr. Adee and Miss Hanna, had been able to review the Department's outgoing correspondence in a very short time; but when the daily output of letters increased from about a hundred to over a thousand and the personnel more than quadrupled, a more elaborate organization was required.

By an order dated October 7, 1918, Secretary Lansing established what was known as the Correspondence Bureau in the Office of the Second Assistant Secretary of State and Miss Margaret Hanna, an employee of the Department since 1895, was selected to direct its activities. Incidentally, at the date of writing Miss Hanna is still serving as Chief of this organization. The Bureau was discontinued temporarily in 1920, but the need for its services was so great that it was reestablished as the Office of Coördination and Review in 1924 and under this designation has functioned steadily ever since. At the present time the personnel of the office consists of the chief, the assistant chief, eight clerks and two messengers.

In order to understand exactly what is meant by the coordination and review of correspondence, a specific example of the procedure taken may be of value. A letter is received in the State Department from a Congressman asking for information regard-

⁶ See article in *The American Foreign Service Journal*, VIII, 441 (November, 1931).

ing the status of the St. Lawrence Waterway Treaty with Canada. The letter is forthwith recorded and stamped with the date received in the Division of Communications and Records—D.C.R.—and routed to the Division of Western European Affairs. It is then referred to the officer specializing on Canada who obtains the necessary information and prepares a tentative draft reply. If found satisfactory, the chief and assistant chief of the Division initial it and may then route it to the Legal Adviser's Office, where it is again read and initialed. The draft reply thus initialed goes to C.R. (Coördination and Review) where it is examined to see if it has been completely coördinated and is in the correct form for signature. If satisfactory, it is submitted to the Secretary or Undersecretary for signature.

The fact that the draft reply goes from the initial drafter to the head of the Division and thence to another or several interested Divisions and that the Division of Coordination and Review makes certain that every interested party has initialed the draft before it is signed, insures consistent decisions and uniform policy as well as an avoidance of diplomatic errors. Important instructions often have to be submitted in final stage to one or more Assistant secretaries, to the Undersecretary and perhaps to the Secretary for final approval before C.R. can send the paper out. The mechanics of handling drafted mail are systematized to avoid unnecessary delays. Cables, air mail and other urgent papers are flagged for special attention, are routed by special messenger and given priority for consideration, signature and dispatch. All outgoing mail is read in this office and submitted to the appropriate officer for signature.⁷ It is then returned to this office and dispatched. The outgoing mail from this office averaged some 19,000 pieces a month in 1933.

Another important duty of the office is to insure absolute fidelity to the originals in the copies of correspondence preserved in the Departmental files. The presence or absence of an article of speech or a comma may determine the interpretation of an important document. The Office of Coördination and Review therefore checks carefully the copy with the original and certifies that the filed copy is an accurate, true copy of the signed original.

⁷ A departmental order makes this a routine matter; see *Departmental Order* # 587—Signature of Mail.

In order that all correspondence may be couched in the proper phraseology, or as Secretary of State Day said to Mr. Adey, "Here is the note, you put it into the departmental lingo", the Office of Coordination and Review is the custodian of the *Official Style Book* of the State Department. This was prepared by Miss Hanna, and prescribes the forms of address and correspondence carried on by the Department.

This office also serves as an additional bureau of information regarding ambassadors, ministers, and heads of missions in Washington and abroad. An up to the minute file is kept so that the Department may know at all times the names, titles, rank, etc., of responsible persons to whom communications should be addressed. The office also maintains a ready-reference file of diplomatic precedents. In this way an avoidance of action contrary to well established precedents may be insured without the necessity for prolonged research.

E. THE PASSPORT DIVISION

The Passport Division is one of the largest and one of the most autonomous divisions of the Department. In the pre-War period when passports were the exception rather than the rule, the duties of the Division were largely carried on by the Bureau of Citizenship. During the War, the Bureau increased in size until it had as many as 250 employees. To remedy this situation, a departmental order of Secretary Lansing, August 13, 1918, divided the work. The Bureau of Citizenship was henceforth to be known as the Division of Passport Control and was to retain jurisdiction over all matters pertaining to passports and citizenship. At the same time a Visa Office was established to take care of all matters relating to aliens coming to the United States. The present organization of the Passport Division is based upon Secretary Kellogg's order of April 17, 1926, which merely changed the name to Passport Division.

The primary function of the Division is the issuance of passports in the United States and abroad. Perhaps the best way to show the increase in the use of passports is to give the figures showing the numbers of passports issued and renewed for certain years. In 1914 the United States issued and renewed 20,320 pass-

ports. In 1920 when the steamship and railway routes were once more open to travel 160,488 were issued. Ten years later in 1930 we reached the peak year before the ravages of the depression, and the number of passports amounted to 203,174. The calendar year 1934 saw the number reduced to 111,673.

Inasmuch as about 40 per cent of all passports issued go to inhabitants of New York, the Division has established a passport agency in New York City which has a personnel of ten employees. For convenience to the public, additional agencies are to be found in Boston, Chicago and San Francisco, all of which are supervised by the Division at Washington. It should be noted, however, that these agencies only issue emergency passports after authorization has been obtained from the Division in Washington. Ordinarily they merely take the application and the Division issues the passport. As a further convenience, an application for a passport may also be executed before any clerk of a federal or state court authorized to naturalize aliens.

Although most travelers get their passports before leaving the United States, sometimes their passports expire while they are abroad and there are also many American citizens living abroad who desire passports. In these cases the American consular officers issue the desired passports.

Inasmuch as passports are at present issued only to persons who are citizens or owe allegiance to the United States, various accompanying documents are required. The applicant must give the pertinent facts regarding his birth, residence, marital status, citizenship, the objects of his journey and his destination. He must supply photographs of himself and those accompanying him. He must be accompanied by an American witness who can make a supporting affidavit. A native citizen must submit a birth certificate or its equivalent, while a naturalized citizen must submit his certificate of naturalization. If there is the slightest possibility of fraud, all of these documents must be checked as to their authenticity.

The work of a clerk examining a passport application is extremely complicated. He must keep in mind the various laws, regulations and treaty provisions which apply and at the same time be on the lookout for fraud and deception. Particular attention must be paid to original applications coming from abroad because fake

or altered birth certificates have become a regular stock in trade in certain countries of Europe.

The Passport Division is very active in its efforts to prevent fraud. Not only is every document scanned and checked but when fraud is discovered the Division acts in procuring indictments and assists in the prosecution. It has also worked out in certain fraud centers abroad a special technique for the identification and authentication of documents. It has made the alteration of passports exceedingly difficult by the use of a special paper and of a new type of flexible cover, by the employment of special type in the passport writing machines, and by a varicolored impression stamped on the photograph at the same time sealing it to the page.

The Division works constantly with the Department of Labor in checking citizenship and in submitting evidence looking towards the deportation of aliens guilty of passport frauds. Since the recent immigration laws have restricted so rigidly the entrance of aliens, the responsibilities of the Division in connection with the issue, renewal and amendment of passports has naturally increased along these lines.

The Division makes a number of statistical studies of considerable value to the Department and to the public. An annual estimate of the number of American citizens living abroad according to countries and districts is compiled from reports received from American consulates in all parts of the world.⁸ These data are extremely valuable in case of a local disaster as they afford an immediate estimate of the possible loss of American lives. An annual detailed analysis of travel from the United States as shown by passport applications gives information regarding the residence, object of travel, destination, and occupation of the travelers and is of value to the Government and many business agencies. As an aid to American travelers the Division compiles an up to date list of the fees required by foreign countries for the visa of American passports.

The Division is necessarily divided into various sections equipped to carry out the technical character of the work. In addition to the chief and several administrative assistants there is a

⁸ As of January 1, 1934, it was estimated that 429,209 Americans were living abroad, of whom 247,565 were in Canada and 98,645 were in Europe.

correspondence section and a correspondence reviewing section, an examining section, a transcribing section, an information and record section, a fraud section, a research section and a passport mailing section. The separate mailing section permits greater speed by direct mailing of passports and correspondence in the United States.

The chief of the Passport Division is Ruth B. Shipley, who has been in the Department of State since 1914. She has held her present position as chief of the Division since 1928. The technical adviser and assistant chief is John J. Scanlan, who is a member of the bar of the District of Columbia and has had about twenty years' experience in the passport work of the Department.

F. THE VISA DIVISION

The Visa Division is essentially the development of an organization due to the vast amount of work entailed by the rigid restriction of immigration to the United States in the post war period. The Visa Office was set up August 13, 1918, in the Division of Passport Control and detached December 1, 1919 to be operated as a separate unit. On January 1, 1931, a departmental order changed its name to Visa Division.

Before the World War the only control of immigration was at our ports of entry which was a very harsh and unfair system for the alien who was not permitted to enter. When the restrictive immigration act of May 19, 1921, placed the entrance of aliens upon a quota basis, the Visa Office and the Department of Labor worked out a policy whereby consuls should issue visas to eligible immigrants abroad. Profiting by the experience of the act of 1921, Congress provided by the Immigration Act of 1924 that an immigrant could only be admitted after first procuring a consular visa on his passport and the consul had to pass upon the eligibility of the alien under both the qualification tests and the allotted quotas.

Although the consul abroad is made responsible for the proper administration of our immigration laws, it is the function of the Visa Division to advise the officers in the field as to the interpretations of law in connection with questions which have arisen in the case of individual aliens. This problem was increased considerably

by the period of the depression when it was found advisable to restrict immigration drastically under a strict interpretation of the clause in the Act of 1917 classifying as inadmissible all aliens who are likely to become public charges.

As might be expected, this drastic restriction policy which reduced immigration to about 10 per cent of the allotted quotas brought about protests on the part of interested parties in the United States. Not only were consuls and the Visa Division bombarded by letters from relations and friends of disappointed aliens, but members of Congress took up cudgels in their behalf, regardless of the fact that both consuls and the Department were merely enforcing a law which Congress itself had passed. The correspondence carried on by the Division along these lines has been a considerable and a somewhat thankless task.

As a matter of fact, while it has been the policy of the government to protect the interests of the American wage-earner, at the same time the Visa Division must see to it that the immigration laws are administered as humanely as is consistent with the restrictive provisions of the law. Every effort is made to avoid needless separation of husbands and wives, parents and children. There are certain provisions of the Act of 1924 which allow American citizens to obtain on behalf of certain immigrant relatives a non quota or preference within the quota status. Such a status is obtained by filing a petition with the Department of Labor which, if approved, goes to the Visa Division for transmission to the consul in the field. The Visa Division has a so-called "Petition Room" where a record is kept of the petitions approved by the Department of Labor and which forwards the authorizations to the proper consular officer abroad.

This Division reviews all visa correspondence from consular officials to interested persons in the United States, which amounts to 17,000 letters a year. Such a review permits the maintenance of a fixed policy and also a check on any incomplete statement of fact or misinterpretation of law. In cases where visas have been refused on questionable grounds or unnecessary delays have occurred, the Division takes up the case with the consular official and the question is carefully reviewed.

Investigations of fraud in connection with immigration documents or other phases of the illegal entry of aliens is another im-

portant activity of the Visa Division. It also cooperates with the Department of Labor in regard to the deportation of aliens, with the Treasury Department regarding matters concerning smugglers of narcotics, with the United States Public Health Service concerning the medical examination of aliens by their surgeons, and with the Department of Justice regarding the prosecution of persons engaged in procuring the illegal entry of aliens into the United States. If the Department considers it desirable to recommend changes in existing immigration legislation to the Congress, the Secretary and Assistant Secretary of State utilize the services of the Visa Division in an advisory capacity.

Although the principal visa task of the Division pertains to the granting of visas for immigrants' passports, there is also a certain amount of work pertaining to the visaing of the passports of temporary visitors. Many aliens, unable to obtain entrance as immigrants, try to get in as tourists, for alleged business purposes or to visit relatives. Ordinarily the consul can decide these cases directly but occasionally he finds it advisable to consult with the Division.

Finally, the Division issues diplomatic visas to members of foreign missions in Washington who desire to go abroad and return to the United States.

There are at the present time about twenty-two persons employed in the several sections of the Visa Division dealing with administration, petitions, reviewing, and statistics. Mr. John Farr Simmons, the present chief of the Division, is a foreign service officer who has had considerable experience in the Department, both as assistant chief and chief of the Visa Office, before his present appointment in 1934. His assistant, Eliot B. Coulter, is an ex-foreign service officer who has had some five years' experience in his present position. Because of the close relationship between the work of the Division and that of the field, the policy of appointing a foreign service officer as chief of the Division seems to have been established.

G. THE DIVISION OF RESEARCH AND PUBLICATION

As its name indicates, the Division of Research and Publication is responsible for two lines of activities: research, which

is largely concerned with the compiling and editing of diplomatic correspondence in the series known as *Foreign Relations*, and the more recent publication known as *Territorial Papers*; and publication, which means editing and proof reading all the publications of the Department of State except those prepared in the Office of the Historical Adviser. The State Department Library is another important unit under the general supervision of this Division.

The publication known as the *Foreign Relations of the United States* is an annual publication of from one to seven volumes which gives all the essential diplomatic correspondence of the United States for the year covered. The Department of State began this series in 1861 under the title of *Diplomatic Correspondence*. In the year 1869 no volume appeared but in 1870 the series reappeared under its present title, *Foreign Relations of the United States*. For many years the volumes appeared regularly within a year or two of the year covered. But beginning with the twentieth century the lag became greater until at present the series is fifteen years behind. There seems to be slight prospects of filling in the gap due partly to the greater complications of post war diplomacy and partly to the refusal on the part of foreign governments to permit publication of their side of the questions at any earlier date.

The technique of determining what part of the voluminous correspondence amounting to some 800,000 papers annually should be chosen for publication is an interesting and intricate one. In the research section there are five men, each responsible for information concerning certain geographical sections of the world. A careful examination is made in the so-called list of papers found in the Division of Communications and Records for the year to be covered. All papers which concern any event of importance which happened in that year are called for and brought to the research section. They are scanned and all papers which are deemed necessary to give a complete picture of the events discussed are chosen for publication. They are then sent to the stenographic section to be copied and the originals are returned to the files.

In choosing the documents for publication certain omissions are sometimes required, for instance, matters which if published

at the time would embarrass negotiations on other business or would give needless offense to other nationalities or individuals through comments not essential to the subject. In order to avoid duplication or needless details the record is sometimes condensed. On the other hand, no alteration of the text is permitted, nor may deletions be made without indication. Finally, all important facts bearing upon a subject must be included and no omission may be made to gloss over a defect of policy.⁹

After the documents selected have been put in galley proof, the proofs are submitted to the geographical divisions of the Department concerned and they may raise objections to the material published. If the Chief of Research and Publications cannot agree with the chief of the geographical division concerned the matter is usually referred to the Undersecretary of State for final decision. It should be noted that in case the correspondence of foreign governments is included, permission from the government concerned is always obtained before publication.

The editing and publishing of the *Territorial Papers* was authorized by an Act of Congress of March 3, 1925, and amended by an Act of February 28, 1929. These acts authorize the Secretary of State to have collected, edited, copied and suitably arranged for publication the official papers of some twenty-eight organized territories which after an average existence of about twenty years joined the Union. Dr. Clarence E. Carter was chosen for this work in 1931 and finding that an exhaustive publication was precluded is engaged in making available all papers dealing with general administration matters of the territories. Several volumes have already appeared and it is expected that the series will consist of twenty or more volumes.

The Publishing Section of the Division consists of some sixteen persons who do the technical work in preparing the publications of the Department of State for the Government Printing Office. In the case of some publications the former do the editing and proof reading, in other cases one or the other, but practically all the publications of the Department pass through the hands of the Publishing Section.

Among the periodical publications of special interest to for-

⁹ See *Foreign Relations of the United States, 1914*, Supplement, III-IV, for statement of principle followed.

eign service officers are *Diplomatic List*, a monthly list of foreign diplomatic representatives in Washington; *Foreign Consular Officers in the United States*, a semi-annual list; *Foreign Service List*, a quarterly list of American diplomatic, consular and foreign service officers according to their classification; *Press Releases*, a weekly printed edition of the daily mimeographed press releases of the Department; *Register of the Department of State*, an annual register of the organization and personnel of the Department and the foreign service. In response to requests from certain groups of citizens the Department issues a number of publications in series, as for example, the Arbitration Series, the Conference Series, the Regional Area Series, the Passport Series and the Map Series. Certain recent miscellaneous publications such as *Marriages of American Citizens Abroad*; *Policy of the United States toward Maritime Commerce in War*; *The Immigration Work of the Department of State and its Consular Officers*; *Admission of Aliens into the United States* and the *Department of State of the United States* also are of interest and importance in the field under consideration.¹⁰

The Library of the Department of State is as old as the Department itself and was founded by Thomas Jefferson in 1789.¹¹ It was burned when the Department was burned by the British in 1814, but it was reestablished with the Department. The first librarian seems to have been appointed in 1833 and among notable historians who have served as librarians we find Robert Greenhow (1835-1850), Frederic Bancroft (1888-1892) and Gaillard Hunt (1921-1923).

In the course of its history the Library has been the repository of many famous collections of historical documents, but most of these have been sent to the Library of Congress which is available to the public and has facilities for exhibition purposes. The Library as organized and maintained at present is essentially a collection of books and documentary materials for the personnel of the Department of State. Works on international relations and international law, political science, economics, diplomatic history and biography and general books of reference are its specialty.

¹⁰ For a comprehensive survey of the publications of the Department of State see Cyril Wynne, *Department of State Publications* (Washington, 1935).

¹¹ For a more complete account see the interesting article by Librarian Martha L. Gericke in the *United States Daily*, VI, 466 (April 25, 1931).

The Library possesses a large and valuable collection of foreign documents of an international character and receives some seven hundred periodicals devoted to the general fields which it covers.

The Library has at the present time about 200,000 volumes among which are some exceedingly rare and valuable collections and individual items. It is particularly rich in claims material, surpassing the Library of Congress in this field. It has a very complete collection of the laws of all the civilized countries in the world. It has a specially prepared set of the *Foreign Relations of the United States* in 167 volumes commencing with 1827 and continuing to 1907-08. It thus supplements the *American State Papers Foreign Relations* collection in six volumes which runs from 1789-1828. It has complete files of the *Annual Register* and of *British Foreign and State Papers*. One of its rarest possessions is a collection of *Netherlands Diplomatic Documents* from 1683-1786, the period of Dutch exploration and colonization.

It has long been the custom for American diplomatic and consular representatives abroad to send in foreign documents of particular interest to the Library, sometimes at the request of the Library, but often voluntarily. On the other hand, the Library has done some work on preparing a general list of books which should be in the library of every mission and consulate, as well as special lists of books on various countries. It has at various times assembled materials on specific subjects either to aid foreign service officers specially detailed to the Department or to accompany missions assigned to temporary work outside.

The Library is restricted to the officers and employees of the State Department; owing to its small staff and the rather limited and technical field that it covers opening the Library to the public has not been deemed advisable.

Dr. Cyril Wynne, the Chief of the Division of Research and Publications, is a former foreign service officer who has had experience in the solicitor's office and served for several years as acting historical adviser to the Department. He is assisted by E. Wilder Spaulding and the following chiefs of section: Morrison B. Giffen, Research; Clarence E. Carter, Editor of *Territorial Papers*; Martha L. Gericke, Librarian; Bryton Barron, Publishing; Alice M. Ball, Special Documents; John J. Brauner, Law.

H. THE OFFICE OF THE HISTORICAL ADVISER

The Office of the Historical Adviser as organized at present is based upon a departmental order of November 1, 1933, which separated it from the Division of Research and Publications. It is divided into administrative, archives, geographic, and treaty sections. In addition to the specific duties which come under these headings, the Historical Adviser is expected to advise with the Secretary of State on historical and constitutional questions as well as in matters of policy relating to current questions before the Department. This office, therefore, has both policy determining and administrative functions.

In the Archives Section of the Office is the vast collection of documentary materials belonging to the Department from its establishment in 1789 up to August 14, 1906. At this time a decimal system of filing was introduced based upon a topical rather than chronological basis and all correspondence after this date is filed in the Division of Communications and Records. All treaties and international agreements up to date are to be found in the archives section.

The Archives Section possesses some 30,000 volumes of which 6,000 to 7,000 are classed as foreign archives. These include diplomatic and consular despatches and instructions and notes to and from the Department, from and to foreign embassies and legations. The files of the International Claims Commissions fill some 6,000 volumes. There is a vast amount of material covering the work of boundary commissions and international arbitration boards and tribunals. Historical maps, passport applications, Indian treaties, laws, amendments, executive orders, and proclamations complete the collection.

Since 1926 the government has followed the policy of affording every facility to scholars to carry on research projects in the archives. Not only are professors and responsible publicists admitted but graduate students working for their doctorates are given desks and the assistance of the archive employees. From five to fifteen independent research workers are regularly found doing research in the archives. Some 4,000 pages of photostatic reproductions of material in the archives are made annually for

officers of the department and outsiders. Mrs. Natalye Summers, Chief of the Archives Section, has been in the Department of State since 1918 and has been Archivist for the past ten years.

The Geographical Section is essentially a post war development which owes its existence to the large collection of maps acquired by the United States for the Peace Conference and the need for accurate information regarding the territorial changes resulting from the War. The determination of immigration quotas under the Immigration Acts of 1921, 1922 and 1924 has been one of the most difficult problems set before this office. The statistics for the national origin quotas required over three years intensive research on the part of the Assistant Geographer who had to recast many of the United States Census tables over a period of more than a century to conform to present European boundaries.

The establishment of international boundaries, the delimitation of territorial waters, the sovereignty of islands, the making of maps, are all duties undertaken by this office. The solving of puzzling addresses is a common occurrence as, for example, pre-War Avaselfosofalu, Szatmar, Hungary, is now Negresti, Satu-Mare, Rumania. In December, 1931, a large map was prepared by the Geographer showing all the diplomatic and consular posts as well as passport control agencies. This office also prepared the alphabetical list of countries with their provincial divisions and their allocation to consular districts as found in the *Foreign Service List* published by the Department. The office is at present engaged in the preparation of a publication entitled *Changes in International Boundaries and Political Units resulting from the World War*. Here will be found the pre-War and post-War official names of all the political divisions of countries which lost or acquired territory, shown in such a way as to superimpose the new boundaries upon the old. Mr. S. W. Boggs, the Geographer, has held his present position since 1924.

The Treaty Section is under the personal direction of Mr. Hunter Miller, the present head of the Historical Adviser's Office. Mr. Miller served as legal adviser to the Mission of Colonel House to Paris, and to the American Mission to negotiate peace, and is the author of several important works on the Paris Peace Conference. He has been Historical Adviser since 1931, and at

present is engaged in editing and compiling a definitive edition of all *Treaties and Other International Acts of the United States*. Not only is the well-known collection edited by W. A. Malloy and revised by Garfield Charles out of date, but many variances from the original text have been found in it.¹² The new collection, of which several volumes have already been published, will include essential correspondence and background material as well as the official text or texts of the treaties. When complete it will probably consist of from fifteen to twenty large royal octavo volumes and will be a most valuable addition to the world's great treaty collections.

I. THE DIVISION OF CURRENT INFORMATION

The Division of Current Information is one of the infant divisions of the Department in age and size, but not in importance. In a democratic system of government where foreign policies as far as possible must seem right as well as be right, a friendly relationship with the press is an invaluable asset. When the World War brought the United States into the vortex of world politics, the advantage of a division of information was quickly realized. As a matter of fact two clerks had been authorized to distribute information to foreign representatives ever since 1909, but it was not until October 15, 1915, that a departmental order of Secretary Lansing made an assistant secretary of state responsible for this important task. In 1917 we find the Division of Foreign Intelligence preparing news items for the press and disseminating information to diplomatic and consular officers. As organized at that time the Division was charged with a number of other duties, but in 1921 it was established in its present form as the Division of Current Information.

The primary function of the Division is to furnish accurate information on questions of foreign affairs to the press. To accomplish this in the most effective manner the Division of Current Information utilizes various methods. In the first place, there are the daily press conferences with the Secretary of State. The Associated Press, the United Press and the International News Service as well as certain newspapers keep correspondents at the

¹² See Hunter Miller's interesting article, "A Point of Punctuation", *American Journal of International Law*, XII, 29-118 (January, 1935).

State Department all the time. These correspondents have a conference with the Secretary of State on Mondays, Thursdays and Saturdays at 10:30 in the morning, and on Tuesdays, Wednesdays and Fridays at 12:30. On a quiet day ten to fifteen appear; when a critical situation arises there may be as many as fifty present. It is the duty of the chief of Current Information to give the Secretary of State an idea of the general type of questions which may be asked and to be present at the conference. A rewrite in the third person is made and mimeographed. Copies are distributed to the various divisions of the Department and mailed to foreign missions which might be interested. It is at these press conferences that the Secretary of State often makes important statements of policy.

If the Department wishes to make a statement of policy of a lengthy or technical nature, as for example, regarding a new reciprocity tariff agreement, a mimeographed press release or "hand-out" is prepared which is distributed to the press and to the divisions of the Department. These press releases average about three a day. At the end of the week all press releases or "hand-outs" are collected and turned over to the Division of Research and Publications which edits and publishes them together with other relevant information in the form of press releases.

The Division of Current Information also furnishes the press in its press releases any suitable information which it may obtain from the diplomatic or consular despatches. Sometimes there are telegraphic or cable reports which fill in the news already obtained by the press from their own correspondents. On other occasions the Division may pick up stray items from written correspondence which the press is glad to utilize.

The giving of "background" is another important phase of the Division's work. Press associations and newspapers are constantly receiving "flashes" and "spot" news from their correspondents in all parts of the world. In order to write a story the proper historical background is often required, and the Division of Current Information is equipped to give it. For example, if a cable despatch announces that the Iraq Government has jeopardized American oil interests by a new Royal Dutch Shell concession, the Division can give the correspondents the complete story of American interests in the region.

Another somewhat similar function of the Division is to aid the Washington correspondents to write what is called a "follow" on some important news item from abroad. Such an article may perhaps give the attitude of the United States Government on the question or may even correct certain flaws or inaccurate statements regarding a policy. Incidentally the Division is sometimes able to catch a false statement in the first edition of a newspaper and either kill the story or answer it simultaneously with its appearance in subsequent editions.

As a special help to the other Divisions of the Department, a summary of foreign news as contained in the press is prepared every morning, mimeographed and distributed to the various offices. These summaries are also collected and mailed to the heads of the diplomatic missions abroad.¹³ A clipping bureau of some twenty-five newspapers published in the United States is maintained and articles of special interest to the various divisions are sent to them within a day of the arrival of the newspaper.

The head of the Division may be called at any hour of the night at his home to answer the query of some ardent newshawk upon some urgent question. The Division of Current Information is apparently expected to maintain a twenty-four hour information service.

At the head of the Division of Current Information at the present time is Michael J. McDermott, who has been in the Department of State since 1920. He was appointed assistant chief of the Division in 1924 and has held the post of chief since 1927. His assistant chief is Walter A. Foote, a foreign service officer. Two other foreign service officers, Howard Bucknell, Jr., and David McK. Key, are at present assigned to this Division.

J. THE TRANSLATING BUREAU

Some agency has existed in the Department of State ever since it was first established to do such translating as might be necessary. Apparently the position of translator was at first only a part time job inasmuch as the early estimates for the work of translation amounted to but \$250 or \$300 per year. It was not until Secretary McLane reorganized the Department in 1833 that

¹³ *Confidential Service to Missions Abroad*, 35 copies of 25 pages.

we find a Translating and Miscellaneous Bureau charged with translating "all letters, papers, and documents of every description whatsoever relating to the business and duties of the Department".¹⁴ The following year, however, Secretary Forsythe merged the duties of translator with those of librarian and the two positions seem to have remained joined for a lengthy period. In 1870 when Secretary Hamilton Fish again reorganized the Department Mr. Henry L. Thomas was appointed Translator at a salary of \$1,800 and he held this position for the next thirty-three years until his death in 1903. He was followed by Wilfred Stevens who it was claimed had a working knowledge of some thirty languages and who served as principal translator for about twenty years. He was succeeded by his assistant, Mr. John S. Martin, who also served as assistant translator or translator for thirty years until his retirement in 1930.

Until after the World War the work of translating was not very extensive and a couple of translators in the Chief Clerk's Office with the assistance of certain typists in the Diplomatic Bureau were able to take care of the work. By 1928, however, it was found advisable to devote more attention to the translating work and a departmental order dated April 16, 1928, established the Translating Bureau. Among others the following specific duties were listed: translation of communications in foreign languages requested by the White House; translation of diplomatic notes and important annexed documents from embassies and legations in Washington; translation of laws, treaty texts, proceedings of international conferences and other material of importance to the Department; translation or summarizing of letters and documents from foreign countries on Departmental business such as claims and visa and passport cases; and finally in order to insure the closest possible adjustment to each other of the foreign and the English text the critical examination of foreign texts of bilingual and multilingual treaties to which the United States is a party.

The checking of foreign language texts of bilingual treaties before signature is a very important part of the Bureau's work. A

¹⁴ Gaillard Hunt, *The Department of State* (New Haven, 1914), 205; see also, article on "The Translating Bureau" in *The American Foreign Service Journal*, IX, 226 (June, 1932).

correct translation of the Treaty of 1783 between the United States and Sweden of which only a French original was made was not obtained until the Supreme Court gave its interpretation in 1930. The English translation of the Treaty of Peace and Friendship with Tripoli originally written in Arabic contained an article, the eleventh, stating that "the Government of the United States of America is not in any sense founded on the Christian religion." The Historical Adviser of the Department made the surprising discovery that there was no Article 11.¹⁵ Many variances have been found in Malloy's *Treaties* which only Mr. Hunter Miller's definitive edition of the *Treaties and Other International Acts of the United States* will ultimately clear up. But the Translating Bureau is charged with the responsibility of not permitting such errors to creep into the respective texts. Two recent developments have made the work of the Bureau difficult. In the first place the rapid development of new inventions in applied science such as the radio, the gasoline motor and its use in automobiles and airplanes, has brought into existence an entirely new technical terminology which no bilingual dictionary includes. In the second place, the spread of political nationalism has been followed by a tendency towards linguistic nationalism which has increased materially the number of languages which the Department must be prepared to handle. Where formerly the Bureau did almost all of its work in French, Spanish and German, it must now make extended translations from about twenty different languages.

The present Chief of the Bureau is Mr. Emerson Christie, a specialist in both French and Spanish, who has served in this capacity since the Bureau was created in 1928. He is assisted by five translators and two clerks. The Bureau regularly turns out a thousand pages of translation per month. The Bureau has been aptly called "a clearing house for the Tower of Babel".

K. THE DIVISION OF PROTOCOL AND CONFERENCES

Although diplomatic ceremonial has always been a necessary adjunct of diplomatic missions and foreign offices abroad, in the United States it has generally been regarded as being in some way a monarchical or court practice,—a puerile deference to mere

¹⁵ *The American Foreign Service Journal*, IX, 227 (June, 1932).

form—and therefore unworthy of our democratic institutions. This attitude has been so pronounced with us that it was not until 1893 that the Congress permitted any foreign representative of the United States to be given the rank of ambassador, and even today our diplomatic representatives are not permitted to wear the resplendent costumes and regalia which is customary with foreign nations. This same sentiment prevented for more than a century the appointment of an official in the Department of State whose duty it should be to act as master of ceremonies at diplomatic receptions and on other state occasions.

Writing as late as 1906, John W. Foster, who had served both as Secretary of State and on numerous diplomatic missions abroad, declared that "the new diplomats coming to Washington have often felt the need of such an official, and even the resident people of society would be grateful to the government if it would provide them some authorized person who could solve for them the many vexed questions of precedence which are continually arising."¹⁶

It was not until the end of the World War that a ceremonial section was created in the Department of State. On August 18, 1919, Mr. Charles Lee Cooke was named "Ceremonial Officer" and placed at the head of the ceremonial section in the office of the Third Assistant Secretary of State. This protocol service was found to be so valuable to the Department and Mr. Cooke's flair for that type of work so pronounced that after sixteen years of service he is still Ceremonial Officer and final arbiter on matters of precedence and protocol.

In 1926 it was found advisable to assign a member of the foreign service as ceremonial officer to the White House and as liaison officer between the White House and Department of State. Mr. Jay Pierrepont Moffat was first given this assignment; he was succeeded in 1927 by another career officer, Mr. James Clement Dunn. This service was expanded by an executive order of Secretary Kellogg dated February 11, 1928, which set up a full-fledged Division of Protocol with Mr. Dunn as chief and Mr. Cooke as ceremonial officer. Inasmuch as the jurisdiction of the new agency covered preparations for international conferences and congresses in Washington and the appointment of delegates

¹⁶ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 57.

or representatives to international conferences held abroad, the Division's name was changed on February 15, 1929, to that of Division of International Conferences and Protocol.

The work of this Division expanded so rapidly that a departmental order of September 11, 1931, divided it into two separate sections—one of conferences and another of protocol. However, the need of retrenchment occasioned by the long period of economic depression which followed, once more unified the two divisions into a single Division of Protocol and Conferences by virtue of the departmental order of May 22, 1933. Mr. Dunn, who had headed the Division of Conferences, was reappointed chief of the new Division, and Mr. Cooke was continued as Ceremonial Officer. The present Chief, Mr. Richard Southgate, a former foreign service officer, served as Assistant Chief of the Division until his present appointment as Chief in 1935.

The duties of the Division are exceedingly varied as the following brief summary indicates: The Division is charged with all matters pertaining to the presentation to the President of ambassadors and ministers accredited to this government. This service includes correspondence pertaining to the *agrégation* or acceptability of these officials to the American government. All the details of the presentation, such as the time, the appointment of the necessary aides, the acceptance of the credentials, the preparation of the President's speech of welcome and the final arrangements in the White House are under the jurisdiction of this Division. All questions regarding the rights and immunities of foreign representatives accredited to the United States are decided here; also arrangements for such courtesies as the freedom of the port and other similar privileges granted to distinguished foreigners are taken care of by the Division. The task of entertaining and protecting visiting foreign officials, foreign naval vessels and their officers and foreign military organizations is included.

In one week Mr. Richard Southgate had to go to New York to meet Ambassador Le Breton of Argentina and to return to Washington with him. Later in the same week he went to New York to meet Hjalmar Schacht, and came back with him. On Saturday of the same week he left for the Pacific Coast to meet the Japanese delegation, which meant four days on the train each

way. Mr. Southgate is said to have remarked, "When I die, I want placed on my grave a stuffed shirt and a battered top hat, with the inscription. 'He rode with Ambassadors.' "

The Division of Protocol and Conferences also assists the American diplomatic official who goes abroad. It finds out whether he is *persona grata* to the foreign government, it prescribes the method of presenting his credentials, subject, of course, to foreign customs, it makes arrangements for his participation in international conferences or ceremonial functions. It answers questions concerning the acceptance of medals and decorations conferred by foreign governments upon military, naval, or civil officers of the United States.

All ceremonial letters from the President of the United States to the heads of foreign governments are prepared in this Division. It obtains permission for American aviators to make flights in foreign countries and for foreign aviators to make flights in the United States. The Division is charged with arrangements for international conferences, congresses, expositions and conventions in which the United States is to participate, at home and abroad. It supervises the fulfillment of the international obligations of the United States with respect to membership in and expenditures for international treaty commissions, committees, bureaus and other organizations. It is responsible for the preparation of the *Diplomatic List* and must be exceedingly careful that no foreign representative's name is omitted. It is equally important that the name of no individual who has not a bona fide official connection with a foreign government appear on the *List*.

The character of the duties of the Chief of Protocol necessarily places its incumbent in a delicate position upon many occasions. Representatives of rival states at a Presidential reception must be shown no preference and careful precautions must be taken to avoid a diplomatic incident. Such a situation arose at the White House diplomatic reception on December 10, 1931. On that occasion the two Bolivian delegates who were in Washington in connection with a possible settlement of the Chaco dispute managed surreptitiously to get into the diplomatic line and to shake hands with President Hoover while the two Paraguayan delegates were still far back in the non-diplomatic line. When the Paraguayans saw that their rivals had unfairly taken precedence,

they left the White House immediately and their government formally protested the incident to the State Department the next day.¹⁷

When a foreign head of state, or minister of foreign affairs, or some other outstanding dignitary makes a formal visit, the arrangements for his reception must not only insure his safety but also preclude the appearance of any hostile manifestation which might reflect upon this government's courtesy and hospitality. The successive visits of Premier MacDonald and Foreign Ministers Laval and Grandi to Washington during the Hoover administration placed heavy responsibility upon the late Warren Delano Robbins, then Chief of Protocol.

The Division of Protocol and Conferences now consists of the Chief, Richard Southgate, a former foreign service officer, Charles Lee Cooke, Ceremonial Officer, an assistant chief, and three officers.

L. THE TREATY DIVISION

The Treaty Division is also one of the younger members of the Department—owing its existence to a departmental order issued by Secretary Kellogg April 21, 1928, and amended by a departmental order of June 8, 1929, issued by Secretary Stimson. Although the Division is not subdivided into sections, its work is clearly of two types: (1) the procedural functions involved in treaty making and (2) informational functions covering the maintenance of treaty records and the supplying of information concerning them.

Inasmuch as many treaties are of the multi-lateral type which issue from international conferences, the preparation for and participation in international conferences has become an important part of the division's work. Many of these conferences take up questions of a technical nature which require a considerable amount of preliminary research. For example, when it was proposed to revise the International Radio Convention of Washington of 1927, all the preliminary work of the Department was centralized in the Treaty Division. Since the problems of radio control are continuous the Division has detailed one man to be-

¹⁷ Drew Pearson and Constantine Brown, *The American Diplomatic Game* (Garden City, N. Y., 1935), 267.

come an expert on radio matters and to be prepared to serve either as a delegate or as a technical assistant at such conferences. He is also expected to make himself familiar with proposed legislation in the United States and elsewhere in regard to radio matters, to aid in negotiations with foreign governments regarding individual cases of interference with United States stations and to protect American interests affected by pirating of news sent by radio to foreign countries.

Aviation is another question which can only be regulated through international action and already numerous international conventions have been drawn up and accepted by the various powers. The United States participates regularly in such conferences and one of the officers of the Treaty Division is a specialist in such matters. The United States has entered into a number of executive agreements with other countries on a basis of reciprocity which permit American airmen to make flights in these countries. They also render possible the acceptance of certificates of airworthiness of American aircraft by foreign governments and the issuance by them of pilot licenses to American citizens. The United States was represented at the Third International Conference on Private Air Law held in Rome in May, 1933, and Mr. Stephen Latchford of the Treaty Division is one of the American members of the *Comité International Technique d'Experts Juridiques Aériens*.

As might be expected, the Division has much to do with the actual negotiation and drafting of treaties with foreign governments. Personal conferences must be held with representatives of foreign diplomatic missions and instructions dispatched to the American missions abroad. When it is remembered that the subjects covered in such treaties range from copyrights and the protection of industrial property to the preservation of fisheries and wild birds, from facilities for tourist travel by automobile to the circulation of films of an educational character, one can appreciate the comprehensiveness of the Division's task.

A very special function of the Division is in connection with the formal instruments incidental to treaty making. Full powers must be drafted and issued to plenipotentiaries of the United States before they can sign treaties or agreements. Interpretative or explanatory notes for exchange at the time of signature of

treaties must be prepared. The communications by which treaties are submitted to the President and by him submitted to the Senate for approval must be taken care of. After its approval the treaty still requires formal instruments of ratification and protocols of exchange of ratifications and finally presidential proclamation. Related work such as conducting correspondence concerning ratification and exchange of ratifications, the abrogation and extension of treaties is also under the Division's jurisdiction. It has been estimated by the Division that it drafts some 3,000 items a year.

The information work of the Division is of almost equal importance with that of treaty making. This service includes the maintenance and continuous development of an extensive file of information concerning treaties to which the United States is a party as well as the more useful items such as name, date and terms of all existing treaties. The information found in the analytical index of treaties is available not only to the Department of State but to other departments of the government and to the public at large. The service includes research, the preparation of memoranda and lists and answering requests by telephone and letter. In order to maintain the files up to date required the examination of 2,660 papers in the year 1933, most of which were despatches from American diplomatic and consular officers.

As a special feature of this service the Division publishes a monthly bulletin entitled *Treaty Information* which gives the news regarding the negotiation, signing, ratification, adherence and abrogation of all treaties and agreements to which the United States is a party or in which it might be interested, as well as other information of a similar character. For example, the 63rd issue dated December, 1934, gave notice of the completion of certain British and Japanese ships under the London Naval Treaty and the notice of intention of Japan to terminate the same treaty. The League's latent effort to settle the Chaco dispute and the invitation to the powers to cooperate was published. Further ratifications of the Opium Convention of 1925 and the Convention for the Suppression of the Traffic in Women and Children were announced. Such information is of great value not only to the officers of the Department of State and to the entire foreign service, but it proves conclusively that the Department of State advocates publishing to the world the results of its diplomacy.

The Treaty Division, whose personnel includes sixteen assistants, is headed by Charles M. Barnes as chief and Wallace McClure as assistant chief, both of whom have been admitted to the bar. Mr. Barnes has been in the Department of State since 1912 and chief of the Division since 1928. Mr. McClure entered the Department in 1920 and has served in his present capacity since 1928.

M THE DIVISION OF FOREIGN SERVICE PERSONNEL

An organization with its personnel distributed as is that of the Foreign Service¹⁸ in all parts of the civilized world, subjected to every sort of climatic condition, from equatorial Nairobi to wintry Winnipeg, and liable to be transferred from Paris to Port-au-Prince at a moment's notice, must pay some attention to morale. It is the function of the Division of Foreign Service Personnel to keep in such close and intimate contact with the officers of the service that transfers and promotions shall be made as far as possible both for the good of the service and to the advantage of the individual. It is hardly advantageous to the service that an officer who has spent a good share of his career in Spanish-speaking countries and has shown particular ability in such posts be transferred to a Far Eastern or Near Eastern assignment. If a change is thought desirable, a post in another Latin country or an English speaking country would be more advantageous. Neither is it good policy to give certain officers a monopoly of the popular posts while certain others are asked to accept more than their share of undesirable assignments.

The Division of Foreign Service Personnel is the planning division of the foreign service officer's career. It takes into consideration the aptitude of the officer, his language qualifications, his particular interests, his predilection for diplomatic or consular work, his previous experience, his length of service at the post, any necessary commitments that he may have made, his health, and even on occasion the health of some close member of his family.

The first office established in the Department to deal solely with questions of personnel was the Office of Consular Personnel

¹⁸ See articles in *The American Foreign Service Journal*, XI, 23 (January, 1934) and *The United States Daily*, I, 4042 (January 24, 1927).

established by a Departmental Order of September 1, 1921. This office was abolished after an executive order of June 7, 1924, set up the Foreign Service Personnel Board to carry out adequately the provisions of the Rogers Bill of May 24, 1924. The same executive order provided for an executive committee of this board whose functions were to take over and keep all personnel records, to submit to the Foreign Service Personnel Board recommendations for post assignments and transfers from one branch to the other, to grant leaves of absence, to interview and examine applicants for the Foreign Service and to maintain contact with foreign service officers while on visits to the United States.

The work of the Executive Committee was so essentially a separate and important entity of the Department that an executive order of September 11, 1929, provided for the establishment in the Department of a "Division of Foreign Service Personnel to which shall be attached not more than three Personnel Officers at least one of whom shall be a Foreign Service officer of high rank . . ."

The Moses-Linthicum Act of February 23, 1931, specifically provided that the Division "shall assemble, record and be the custodian of all available information in regard to the character, ability, conduct, quality of work, industry, experience, dependability and general availability of Foreign Service officers including reports of inspecting officers and the efficiency reports of supervising officers. . . ."

"Not later than November 1 at least every two years, the Division of Foreign Service Personnel shall . . . prepare a list in which all Foreign Service Officers shall be graded in accordance with their relative efficiency and value to the Service. . . . This list shall not become effective insofar as it affects promotion until it has been considered by the Board of Foreign Service Personnel herein provided for and approved by the Secretary of State. . . . From this list of all Foreign Service officers recommendations for promotion shall be made in the order of their ascertained merit within classes"

A Departmental Order of June 19, 1931, prescribed the following additional duties (1) to maintain contact with Foreign Service officers and employees while on visits to the United States; (2) to discuss with Foreign Service officers ways for the develop-

ment and improvement of their work; (3) to confer with the Divisions of the Department concerning the work of Foreign Service officers;¹ (4) to interview applicants and prospective applicants for the Foreign Service; (5) to examine and recommend for appointment applicants for positions as subordinate employees in the Foreign Service and to keep the efficiency records and other pertinent data concerning all employees of the Foreign Service; (6) to keep records of the Board of Examiners for the Foreign Service and attend to all details connected with the holding of examinations for the Foreign Service.

These laws and regulations are still in effect and every Foreign Service officer must look to this Division for orientation and progress in his career. Of course, the primary basis for recommendation both for transfers and promotions is the carefully prepared efficiency reports sent in by supervising officers. These reports must be studied and filed to serve as the officer's character *dossier*. But personal interviews are also an important factor in evaluating an officer's services and the Division makes a particular point of interviewing all visiting officers home on leave. It is estimated that in a normal year as many as 300 officers visit the Department for periods varying from several days to a few weeks and are interviewed by one or more officers of the Division.

In addition to the reports from the officers in charge of each post, the Department keeps two or three inspectors in the field who travel from post to post and keep the Division in personal touch with the force in the field. Men chosen for inspectors are men of experience in the service, endowed not only with keen perceptions and administrative ability but possessed of personalities which command affection and respect. An inspector will often perceive and report upon undesirable conditions which would never have been mentioned in an official report. He is also in a position to listen to grievances and to see that they are corrected if justifiable.

It is interesting to note that the first Chief of the Division of Foreign Service Personnel, Homer M. Byington, a career officer of more than thirty years' experience, is now an inspector, while the present Chief of the Division, Thomas M. Wilson, also a career man, had a number of years' service as an inspector before his appointment to his present position.

Perhaps a word should be said concerning the Board of For-

eign Service Personnel which, as we have seen, was also set up by the executive order of June 8, 1931. This Board which at present consists of three Assistant Secretaries of State, Mr. Carr serving as chairman, receives the efficiency ratings of the Foreign Service officers from the Division of Foreign Service Personnel and recommends all assignments and promotions from the information thus furnished. Not only may recommendations be made for promotion within the Foreign Service, but those officers who have demonstrated special capacity may be recommended for promotion to the grade of minister.

N. THE FOREIGN SERVICE OFFICERS' TRAINING SCHOOL

As its name indicates, the Foreign Service Officers' Training School gives instruction to candidates who have already successfully passed the examinations for admittance to the Foreign Service. The School in its present form is an essential feature of the Foreign Service as reorganized by the Rogers Act of 1924 and the Moses-Linthicum Act of 1931. From 1924 to 1929 the newly appointed officers were assigned directly to the Department for instruction in the School but since that time it has been customary to send the successful candidates to nearby consular offices on probationary assignments before receiving instruction in the Department.

The idea back of the School dates from the same period as the establishment of a career consular service. Secretary of State Root in 1906 began the reorganization of the consular service on a merit basis and the following year the newly appointed consular officers were given a thirty-day course of instruction in the Department before proceeding to their posts. According to Mr. Carr, at that time Chief Clerk, the purpose was "to give novitiates in the service some practical training in the running of a consular office before sending them to their posts. This is mutually helpful, for it saves the new appointee from making many embarrassing mistakes and saves the Department from conducting a sort of correspondence training school."¹⁹

Two years later in 1909 newly appointed diplomatic secretaries were also assigned to the Department for instruction although in

¹⁹ James B. Stewart, "Foreign Service Officers' Training School," *The American Foreign Service Journal*, X, 224 (June, 1933).

practice their training largely consisted of visiting the various divisions and bureaus of the Department and reading reports, rather than in having more formal instruction.

The Rogers Act of May 24, 1924, provided for "a suitable period of probation in an unclassified grade" thereby permitting the successful candidates to be assigned to the Department for instruction for as long a period as should be deemed necessary. The executive order of June 7, 1924, authorized the creation of a School in the Department of State to afford a period of instruction and probation for new appointees to the Foreign Service of the United States. The instruction was to be essentially of a practical nature, and the courses were selected primarily for their value as essential background material for the regular work in the field. The lecturers were to be officers of the Department and of the foreign service with a few specialists from the outside when this was deemed advisable.

Mr. William Dawson, a career officer of many years' standing was appointed chief instructor and took up his duties February 1, 1925. The first class worked in the Department for a period of five months but the term was gradually increased to seven or eight months. The students followed a regular routine of lectures, work in a Division of the Department, French conversation, quizzes and study. Experts from the various geographical divisions outlined American policies as they related to the various parts of the world. Lectures were given on such subjects as economic policies, foreign loans, raw materials, political reporting, electrical communications, and many other political and technical problems. But perhaps the most important part of the students' preparation was the opportunity to spend from one to three weeks in each of the important divisions of the Department. In this way the new appointees not only obtained a valuable insight into the details of departmental organization and operation but established useful contacts with their older colleagues.²⁰

When Consul General James B. Stewart took over the School October 1, 1928, it was decided to curtail the course to six weeks, but when that period was found to be too short it was lengthened to three months. One other change occurred when at the sugges-

²⁰ See article by William Dawson in *The United States Daily*, I, 4066 (January 26, 1927).

tion of Mr. Byington the appointees were given several months' training in the field before being assigned to the Department for work in the School.

Owing to the depression and the failure to appoint new foreign service officers for several years, the last regular course was given in 1933. However, the organization of the School has been kept intact so that when new appointments are made it will start functioning automatically.

As at present organized, the general direction of the School is under the Foreign Service Officers' Training School Board consisting of Assistant Secretaries of State Carr, Welles and Moore, Foreign Service Personnel Chief Wilson and School Director Pinkerton. Mr. Lowell C. Pinkerton is a career officer who has had experience as an inspector as well as regular service in the field. The teaching staff as at present organized is equipped to give lectures on the following subjects: Accounts and Returns, Administrative Codes, Documentation of Merchandise, Estates and Notarial Functions, Foreign Commerce, Immigration Laws, International Law, Inventories, Passports and Citizenship, Political Reporting, Shipping and Seamen.

O. THE FOREIGN SERVICE BUILDINGS OFFICE

The record of the United States government in providing adequate living and working quarters for its diplomatic and consular representatives abroad leaves much to be desired. For some reason until quite recently it has been regarded as undemocratic for the United States to house its ambassadors and ministers adequately and to give them suitable chanceries in which to perform their functions. Up until the World War period the United States possessed but one suitable embassy building and one adequate legation—the former at Constantinople, the latter at Peking. The situation as regards consular establishments was even worse.

The first important legislation to remedy this situation was the Lowden Act of February 17, 1911, which provided a maximum of \$500,000 annually to be used by the Secretary of State for the acquisition of suitable sites and buildings abroad. The first appropriations under this act were made in 1914 for the purchase of embassies in Tokyo and Mexico City. Subsequent prog-

ress was so slow that after fourteen years only eight embassy and legation buildings had been acquired, of which one was a gift.

The next legislative step was the Foreign Service Buildings Act of May 7, 1926, which empowered the Secretary of State, subject to the direction of a Foreign Service Buildings Commission established by the Act, to acquire property and buildings and to alter, repair and furnish such buildings for the use of diplomatic and consular establishments. The amount to be appropriated, not to exceed \$10,000,000, was to be known as the Foreign Service Building Fund of which not more than \$2,000,000 was to be expended in any one year. The Foreign Service Building Commission was to consist of the Secretary of State, the Secretary of Treasury, the Secretary of Commerce, the chairman and ranking minority members of the committees on foreign affairs of the Senate and the House.

A month after the passage of the Act the Foreign Service Buildings Office was set up in the Department and on June 23, 1926, Mr. Keith Merrill, a foreign service officer, was appointed Chief. The duties of the Office as stated in the Register of the Department are as follows: To maintain general supervision of matters relating to the housing of diplomatic and consular establishments abroad and the protection and maintenance of properties owned or to be acquired by the United States for such purpose. The Office has charge of programs of expenditure with the approval of the budget officer of the Department for the acquisition, construction, alteration or furnishing of such properties.

A survey of the progress towards an American foreign service wholly housed in American owned buildings indicates that only a small beginning has been made. The most successful part of this program has been the acquisition of suitable residences and chanceries for our ambassadors. We own residences at London, Paris, Rome,²¹ Istanbul, Tokyo, Rio de Janeiro, Santiago (Chile), Buenos Aires, and Mexico City, and also own land suitable for building in Berlin,²² Moscow, Lima, and Havana. We possess magnificent chancelleries in Paris and Tokyo and entirely adequate ones in Rome and Istanbul. We also possess ex-

²¹ The palace has not yet been remodeled for living quarters

²² The Blucher palace in Unter den Linden which the United States owns will furnish much of the building material for the new structure.

cellent sites for chancelleries in Buenos Aires, Rio, Havana, and Berlin. Perhaps the greatest and most pressing need is for a government-owned office building in London.

The present location of the American government's various establishments in London is as follows: the residence of the Ambassador at 1314 Princes Gate; the chancery at 4 Grosvenor Gardens; the Military, Naval and Agricultural attachés, and the Despatch Agency at 6 Grosvenor Gardens; the consulate general at 18 Cavendish Square and at 2 Harley Street; representatives of the Department of Labor and the Public Health Service are also at 2 Harley Street; the Commercial Attaché at Bush House, Alwyck, and the Treasury Attaché at 20 Regent Street. The total rental amounts to approximately \$40,000 a year, certainly an expenditure justifying the immediate construction of a centralized office building, even if we disregard the inexcusable waste of time and energy of both officers and public necessitated by this badly scattered arrangement.

In the smaller capitals much less has been done and in approximately two dozen posts the successive chiefs of mission have insisted upon the necessity and advantages of buying land to be used permanently for government purposes.

The situation is even more serious as regards consulates and there are about thirty unhealthful consular posts where the failure to furnish adequate housing has not only been wasteful financially but has been the cause of the deaths of several consular officers. Francis White, who resigned as Minister to Czechoslovakia in 1933 is said to have given as one of the reasons for his resignation the fact that the American legation was housed in a building whose chimney was falling down, whose roof was tumbling in, and where the chinks in the walls let in the sunshine and the rain. As a consequence, Mr. White was forced to reside in a hotel.

On the other hand, the very artistic and well equipped consulate general at Tangier, Morocco, has made this post one of the most attractive in the service, and has enhanced very considerably the prestige of the United States in this part of the world.

The Foreign Service Buildings Office under its acting Chief, Mr. Robert J. Phillips, obtains information as to suitable sites,

prepares plans for sites already owned, and supervises buildings in the process of construction; unfortunately, the Foreign Service Buildings Fund is now depleted and only Congress can appropriate funds for the continuance of this vital and already too long delayed program.

P. THE BUREAU OF ACCOUNTS

The Bureau of Accounts ²³ appeared for the first time in the Department of State under this title in 1870 when Secretary Hamilton Fish made his famous reorganization of the Department. A somewhat similar office known as the Superintending and Disbursing Bureau had been established as far back as 1833. The following year, however, Secretary Forsythe substituted for this Bureau the Disbursing Agent who was charged with all disbursements and purchases of the Department. By the act of March 3, 1873, the Congress gave the Bureau a statutory basis and the Bureau has been an important part of the Department's administrative machinery ever since.

The Bureau of Accounts is charged with all the financial business of the Department of State both at home and abroad. When it is realized that the administrative examination of all accounts for expenditures includes not only the State Department but the expenditures made in the embassies, legations and consulates in every country of the world, in many kinds of money, and with varying rates of exchange, as well as those made by the various international commissions and conferences in which the United States is represented, the vast scope of its activities can be appreciated.

In making its administrative examination "the Bureau must determine whether the expenditure was authorized; whether under the laws and decisions of the Comptroller General it was legal, whether the fund charged was applicable, and whether the proper receipt both in the amount of foreign money used and in the equivalent in American money at the proper or prevailing rate of exchange, has been furnished." ²⁴

The present organization of the Bureau is based upon a De-

²³ See article in *The American Foreign Service Journal*, X, 136 (April, 1933).

²⁴ William McNeir, "Financial Accounts", *The United States Daily*, I, 4078 (January 27, 1927).

partmental order dated November 17, 1928, dividing the Bureau into three separate units: (1) the Administrative Office charged with the direction and supervision of the Bureau; (2) the Auditing Section whose function it is to audit all vouchers, pay rolls and similar documents covering expenditures of the Department at home and abroad; (3) the Fiscal Control Section charged with the maintenance of the appropriation, fund, and proprietary accounts of the Department and field offices, the preparation of Department pay rolls, and the preparation of such current and special reports as may be incidental to these accounts.

Inasmuch as other departments are represented abroad it has been customary for the Department of State to make expenditures for the purchase of supplies, telegrams and travel expenses for these departments, including them in the accounts of the various foreign service posts. In the year 1932 the Bureau handled over 1,600 accounts of this kind. The Bureau is required by law to prepare and submit annually to the President a comparative report showing all receipts and disbursements on account of refunds, allowances and annuities, together with the total number of persons receiving annuities and the amount paid them under the Foreign Service Retirement and Disability Fund. Since 1930 all American clerks and other employees in the foreign service have been subject to the Civil Service Retirement and Disability Act so that the schedules and vouchers required under this act are a part of the Disbursing Officer's accounts.

The Bureau also receives deposits from private persons and business concerns in the United States to cover expenses for services abroad such as the investigation of the whereabouts of Americans who have lost contact with their friends, relief and welfare services, and making copies of documents; at the same time it accepts funds from foreign governments in payment of claims or amounts due to American citizens. In this connection, over a half million dollars loaned to stranded American citizens abroad at the outbreak of the World War by the American government was taken care of by this Bureau.

All accounts concerned with extradition cases are handled by the Bureau. All expenses incurred at the request of the Federal or State governments are paid from the Department's "Bringing Home Criminals" appropriation, and when the extradition is

made at the request of a state a bill covering the expenses is sent subsequently to that state. Expenses in connection with extradition cases for foreign governments are paid by the Department of Justice but the State Department forwards the bill.

All fee stamps affixed to documents by officers in the field are issued by the Bureau. All posts in the foreign service outside of the three fiscal districts established at Ottawa, Mexico City and Paris are required to use the fees collected to pay salary and office expenses. If the fees collected are insufficient, drafts may be drawn on the Secretary of State for amounts necessary to balance their accounts. The drafts are then sent to the Fiscal Control section where they are recorded, sorted, and scheduled and then sent to the Division of Disbursement in the Treasury Department²⁵ for payment.

Inasmuch as a foreign service officer is not entitled to expenses of his transfer from one post to another if made at his own request, the Accounting Bureau requires a certificate to accompany all travel accounts for expenses in connection with transfers stating that such transfers were not made at the officer's request.

The Bureau of Accounts is a large unit consisting of a chief, an assistant chief, two chiefs of sections and twenty-eight clerks. The Chief of the Bureau of Accounts, Mr. William McNeir, has been employed in the Department for fifty-four years and has served in his present position since 1913.

Q. THE OFFICE OF ARMS AND MUNITIONS CONTROL

The most recently established unit in the Department of State owes its existence to the ardent desire of the Congress to keep the United States out of foreign wars. A joint resolution of Congress approved August 31, 1935, provided for the prohibition of the export of munitions and implements of war to belligerent countries; the prohibition of the transportation of such commodities by vessels of the United States for the use of belligerent states; the registration and licensing of persons engaged in the manufacture, export or import of implements of war and the restriction

²⁵ The Disbursing Office of the Department of State was absorbed by the Division of Disbursement in the Treasury Department on March 1, 1934.

of travel by American citizens on belligerent ships during war.²⁶

The resolution further provided for the establishment of a National Munitions Control Board consisting of the Secretary of State, as chairman, and the Secretaries of Treasury, War, Navy, and Commerce Departments, as members. All persons or firms manufacturing or dealing in arms or munitions or implements of war were required to register within ninety days with the Secretary of State.

To administer the provisions of the Act Secretary of State Hull by a departmental order established in the Department of State the Office of Arms and Munitions Control whose duty it was to register all manufacturers, exporters and importers of implements of war and to issue licenses for exportation and importation of arms and implements of war under such regulations as might be promulgated by the Secretary of State.

Mr. Joseph C. Green, an officer in the Division of Western European Affairs in the Department of State was appointed Chief of the Office, and Mr. Charles W. Yost, a former foreign service officer, was named Assistant Chief.

To carry out the wishes of Congress, President Roosevelt in proclamations dated September 25 and October 5 announced a list of articles to be considered arms, munitions, and implements of war. Another proclamation dated October 5, 1935, declared that a state of war existed between Italy and Ethiopia and admonished all American citizens to cease traveling upon any vessel of the belligerent states.

²⁶ *Public Resolution No. 67, 74th Congress.*

CHAPTER VII

THE DEVELOPMENT OF THE AMERICAN DIPLOMATIC AND CONSULAR SERVICE

It has already been shown that the President is the controlling factor in determining the foreign policy of the United States. But to carry out this policy it is not sufficient to have at home an able Secretary of State with capable and well trained assistants; there must also be a corps of experienced men abroad, specialists in the various international services, experts trained to achieve results in accordance with long established international procedure. Conceding that a man brilliantly successful in business or politics at home may at times be equally successful abroad, nevertheless he must have the assistance of the career officer to counsel and advise him in the many intricate details of diplomatic practice.

Eminent Diplomats of the Revolutionary Period—In its early history the United States appreciated the advantages of being well represented abroad. Fortunately for the new republic, although the Congress under the Articles of Confederation was notoriously inept and inefficient in its conduct of foreign relations, at no period of our history do we find more eminent names in the list of those representing the United States abroad.

Benjamin Franklin had a remarkable diplomatic career. His first experience of this nature began in 1757 when he was sent by the Pennsylvania Assembly to London where he remained for five years. Two years later he returned to London as the representative of Pennsylvania, Massachusetts, New Jersey and Georgia, and for eleven years until 1775 he carried on every sort of negotiation in behalf of these colonies. At the outbreak of the war he was first sent to Canada to gain the support of the northern colonies and in 1776 he was appointed commissioner to France. The following year he was commissioned to the court of Spain but never completed this mission. In 1778 he was named plenipotentiary to

the court of France and became the reigning sensation of the day. In 1781 Franklin was named with John Jay as joint commissioner to negotiate peace, and it was during these delicate negotiations that he wrote his famous reply to Vergennes who had complained justly that France had not been informed of the preliminary articles of peace. It was a masterpiece of diplomatic finesse and while avoiding a break with France it maintained the advantages of treating directly with England. In 1782 at the age of 76 he was appointed plenipotentiary to negotiate a treaty of amity and commerce with Sweden and he was entirely successful in his mission. Commissioned again two years later to sign similar treaties with European countries and the Barbary States, he was able to sign a treaty with Prussia in 1785. With more than twenty-five years of diplomatic experience, oftentimes serving simultaneously upon several different commissions, Franklin well deserves the title of America's first career diplomat.

John Adams served as commissioner to France in 1777 and as plenipotentiary to negotiate peace with Great Britain in 1779. He was commissioned to negotiate a treaty of amity and commerce with the Netherlands in 1780 and the following year was again appointed joint commissioner to make peace with Great Britain. In 1785 he was commissioned as the first minister plenipotentiary of the United States to Great Britain and served for three years under the most trying circumstances. Although John Adams possessed a temperament hardly suited to diplomacy and was reputed to have said that no man will ever be pleasing at court in general who is not depraved in his morals or warped from his country's interest, he was successful in matters where patience and dogged determination were required. His achievement in obtaining a commercial treaty with the Netherlands was declared by a European foreign minister to have been "the greatest blow struck in the American cause, the most decisive."¹

John Jay was appointed plenipotentiary to the court of Spain in 1779 and left Madrid in 1782 as a joint commissioner to negotiate peace with Great Britain. His substantial achievements at this period are too often overlooked because of his subsequent unpopularity resulting from the Treaty of 1794.

Thomas Jefferson was commissioned joint plenipotentiary in

¹ John Adams, *Works*, 10 vols. (Boston, 1851-65), III, 309.

1784 to sign treaties of amity and commerce with European and Barbary States and signed treaties with both Prussia and Morocco at Paris, the first on July 28, 1785, and the second on January 1, 1787. His subsequent brilliant career as Secretary of State and as President should not make us forget his earlier success in representing his country abroad.

To Silas Deane, however, goes the honor of having been the first diplomatic agent appointed to represent the new revolutionary government. His letter of instructions was dated March 3, 1776, and was prepared by the Committee on Secret Correspondence. He was to assume the character of a merchant engaged in West Indian trade, put himself in contact with friends of the colonies abroad and to secure audience with the Count de Vergennes, French Minister of Foreign Affairs.² He used invisible ink in his correspondence, writing his despatches to Congress between the lines of supposed business letters which the officials at home could easily read after subjecting the letters to an acid bath.³

John W. Foster, although conceding that the young republic was not always well represented by its agents and diplomatic representatives, places Franklin, Adams, Jay and Jefferson on a par with the best trained diplomats of Europe, and in reviewing the history of the Revolutionary period gives it as his opinion that the place in the public esteem and in value of service to our country, next to Washington, must be given, not to that patriot John Adams, not to Patrick Henry, Thomas Jefferson, nor to any military hero, but to Benjamin Franklin, our first and greatest diplomat.⁴

Slow Development of the Diplomatic Service—After the Federal government was set up under the Constitution in 1789 the diplomatic service developed slowly. Under the Constitution (Art. II, Sec. 2) the President was given the power to nominate and by and with the advice and consent of the Senate to appoint ambassadors and other public ministers and consuls. It was over a century, however, before any ambassadors were appointed, and in his

² Francis Wharton, *Diplomatic Correspondence of the American Revolution* (Washington, 1889), II, 78.

³ John Jay, *Correspondence and Public Papers*, 4 vols. (New York, 1890-93), I, 84.

⁴ John W. Foster, *A Century of American Diplomacy* (New York, 1910), 102.

first appointments President Washington limited the rank of his foreign representatives to that of chargé d'affaires. The first two appointments were made April 20, 1790, before an Act of Congress made any provision for foreign representation. William Short and William Carmichael were commissioned as chargés d'affaires to France and Spain respectively, "the designation of the officer being derived from the law of nations and the authority to appoint from the Constitution".⁵

When in 1790 President Washington proposed to send a chargé d'affaires to Lisbon the Portuguese government objected on the ground that the grade was "of little privilege or respectability by the rules of their court and held in so low estimation with them that no proper character would accept it to go abroad".⁶ The President thereupon decided to nominate David Humphreys as minister resident but with no increase in salary.⁷

On July 1, 1790, the Congress passed an act authorizing the President "to draw from the Treasury a sum not exceeding forty thousand dollars annually for the support of such persons as he shall commission to serve the United States in foreign ports, and for the expense incident to the business in which they are employed".⁸ It should be noted that in the beginning Congress appreciated the need of an expense account, in fact an outfit was allowed each minister equal to the total of his salary. Unfortunately, the total of salary and outfit for a minister was not to exceed \$9,000, a sum hardly adequate even in those days for the necessary equipment and expense. Robert Livingston when Secretary of Foreign Affairs in his annual report as to the needs of his Department had pointed out "Justice suggests that the salaries of officers who are engaged in so delicate and difficult a department . . . should have such appointments as to free them from embarrassment with respect to their private affairs,"⁹ but Congress was just as unwilling then as it is today to appropriate adequate expense allowances for our foreign representatives. Jefferson dipped into his private fortune and finally went bankrupt as

⁵ 7 *Opinions U. S. Attorney General*, 194.

⁶ *American State Papers, Foreign Relations*, I, 127.

⁷ It should be noted, however, that chargés d'affaires were sent later between the years 1825-1854 and 1876-1882.

⁸ 1 *U. S. Statutes at Large*, 128.

⁹ Samuel Flagg Bemis, *American Secretaries of State and Their Diplomacy* (New York, 1928), I, 126

a result of his diplomatic expenses and Mr. Calhoun refused both the London and Paris posts because his private fortune would not stand the cost.

The first minister appointed by President Washington was Gouverneur Morris, a brilliant young New York lawyer. He was to succeed Thomas Jefferson who had left the legation in Paris in 1789 in the hands of William Short, as chargé d'affaires. It was a crucial time in French history and Washington cautioned his representative to show more "temper and caution than his enemies charged him with habitually displaying".¹⁰ Morris was entirely out of sympathy with the Revolution but he was the only foreign envoy who remained at his post during the Terror.

During Washington's administrations there were only a half dozen European countries where the United States felt it essential to send diplomatic representatives—France, Great Britain, Spain, Portugal, the Netherlands and Prussia. The first American minister to Russia was commissioned in 1809, a minister was sent to Sweden and Norway in 1814, while Austria did not receive a diplomatic representative from the United States until 1838.

The Congress in this early period neither created diplomatic offices nor did it determine grades or ranks, although certain grades of diplomatic officers were mentioned in some of the appropriation acts. It was the President's right to appoint public ministers of any rank or denomination which the public interest might require.¹¹ Thus we find the Minister Resident to Portugal, David Humphreys, also accredited as Commissioner Plenipotentiary to Algiers. A special minister was sent to Denmark in 1811. Until 1814 the United States representative to the Netherlands had the rank of minister resident, but subsequently he ranked as envoy extraordinary and minister plenipotentiary. We have already noted that Washington's first diplomatic appointees were commissioned as chargés d'affaires to France and Spain.

In 1818, however, the Congress specified the names of the diplomatic posts already established or those to be filled and certain sums of money were allotted to each in the appropriation acts.¹² Realizing, however, the necessity of a certain degree of

¹⁰ Beckles Willson, *America's Ambassadors to France* (London, 1928), 48.

¹¹ 7 *Opinions U. S. Attorney General*, 195-196.

¹² 3 *U. S. Statutes at Large*, 422.

flexibility, an additional sum as a contingent fund was placed at the disposal of the President. The first law definitely regulating the diplomatic and consular services was not passed until March 1, 1855.

Early Development of the Consular Service—No attempt was made in the early period of the United States to set up a consular service entirely separate from the diplomatic service. The minister was expected to act also as the consul general in the country to which he was accredited and to supervise all other consular officers serving there. Since Congress at first failed to appoint any consular officers, the diplomatic representative had to serve also as a commercial agent John Adams while commissioner in France urged the appointment of consuls, and Franklin was very emphatic in his suggestions that the plan of appointing French merchants as commercial agents was bad and expensive.¹³

Our first consul, William Palfrey, was appointed in 1780 in accordance with the terms of the Treaty of Commerce with France signed in 1778 but he never arrived at his post, as his ship was lost in a storm. Mr. Thomas Barclay was thereupon sent to France in 1781 with a commission as vice consul which was subsequently changed to consul when Palfrey's death was definitely ascertained. Although Thomas Barclay is generally considered to have been the first American to serve as a consul under a formal appointment, Richard Harrison, an American merchant at Cadiz, was appointed early in 1781 and called consul by *Chargé d'Affaires* William Carmichael.¹⁴

The first action taken by Congress regarding a consular service was the resolution of March 16, 1784, declaring it to be "inconsistent with the interests of the United States to appoint any person not a citizen thereof to the office of minister, *chargé des affaires*, consul, vice consul or to any civil department in a foreign country".¹⁵ In spite of requests by our foreign representatives that the two services be separated, however, a resolution of October 28, 1785, authorized the ministers plenipotentiary of the United States in Europe and, where there was no minister,

¹³ E. R. Johnson, "The Early History of the United States Consular Service, 1776-1792," *Political Science Quarterly*, XIII, 24-25 (March, 1898).

¹⁴ Bemis, *op cit*, I, 179.

¹⁵ *Journals of the Continental Congress*, IX, 60.

the chargé d'affaires, to exercise the powers of a consul general.¹⁶ But inasmuch as the resolution did not prohibit the appointment of consuls, in January, 1786, Samuel Shaw was chosen consul and Thomas Randall vice consul to serve in Canton, China.

The first American consular convention, in fact the first treaty or convention to be approved by the Senate was the one signed between the United States and France, November 14, 1788,¹⁷ and approved by the Senate July 29, 1789. This convention had originally been drawn by Franklin and Vergennes in 1784 but when reported to the Congress it was opposed by John Jay, the Secretary of Foreign Affairs, on the ground that it gave to consuls far too much jurisdiction over the vessels of their respective countries.¹⁸ The revised version of 1788 eliminated this defect and according to foreign authorities it was praised as "the most complete consular convention ever concluded and likely to be taken as a precedent for the future".¹⁹ During the first three years of his administration Washington appointed seventeen consuls and five vice consuls whose remuneration came solely from fees and profits of their commercial activities.²⁰ Realizing the need for further legislation, in his address to Congress December 8, 1790, Washington urged the expediency of regulating by law both the jurisdiction and the functions to be permitted to consuls. The Congress thereupon passed the first law regulating consuls and their duties on April 14, 1792,²¹ which was to remain the organic law on the subject for more than half a century.

Consular Service Established on Fee System—The act of 1792, however, did little more than recognize the existence of the consular service, prescribe the duties to be performed and provide a schedule of fees which the consular officers might collect for their official services. Consuls and vice consuls could receive protests and declarations and give copies duly authenticated; they could settle the estates of Americans dying within their district if

¹⁶ Johnson, *op. cit.*, 32.

¹⁷ 8 *U. S. Statutes at Large*, 106

¹⁸ Johnson, *op. cit.*, 35; see also Bemis, *op. cit.*, I, 157.

¹⁹ Cited by C. L. Jones, *The Consular Service of the United States* (Philadelphia, 1906), 4.

²⁰ Eugene Schuyler, *American Diplomacy* (New York, 1895), 45.

²¹ 1 *U. S. Statutes at Large*, 254.

the laws of the country permitted; they were expected to take jurisdiction over stranded vessels flying their flag and over goods saved from these vessels; to serve as depositories for ships' papers and to offer relief to shipwrecked seamen. There were restrictions neither as to nationality nor as to the right to engage in trade. In fact, except in the Barbary states, consuls received no salaries and had to depend upon fees and their business for their livelihood.

Apparently no one would accept the position of consul in Tunis, Tripoli, or Morocco unless a salary should go with the post. As these were important posts at a time when the Barbary corsairs were constantly seizing American ships, cargoes, and crews, the Congress authorized salaries of \$3,000 to be paid to consuls in these countries. Algiers was added to the list of salaried posts in 1797.²² An act of May 1, 1810, provided that the consuls in the Barbary States should not engage in trade, the first law of its kind on the statute books.

A combination of the spoils system and the fee system was not a sound basis for satisfactory and efficient consular service, and numerous complaints came to the State Department. The personnel was alleged to be incompetent and the fees unequal and exorbitant. Secretary of State Edward Livingston made a careful investigation into the whole situation in 1833 and in a lengthy and critical report emphasized the need for a stricter definition of consular functions and pointed out the viciousness of the fee system.

He gave it as his "decided opinion that the exaction of fees has been the source of misunderstandings between our consuls and the masters of vessels, injurious to the reputation of the country; that it is degrading to the officer who is obliged to wrangle for them, is unequal in its operations, oppressive to our commerce, and ought either to be wholly abolished or so modified as to make the operation of the system more equal"

As a remedy for the situation, Secretary Livingston suggested that the consular officers be compensated by adequate salaries. "They will never then by their countrymen be suspected of acting towards them as their commercial interest, not as their duty requires, and their complaints in behalf of their fellow citizens will

²² Jones, *op. cit.*, 5-6.

be attended to, because they will not be liable to the suspicion of advocating their own interest. . . ." ²³

A list of the ministers, consuls and other diplomatic and commercial agents of the United States in foreign countries as of December 15, 1830, appended to this report indicates the rapid growth of the consular and commercial services as contrasted with the diplomatic. In the diplomatic group we find only five posts—Great Britain, France, Russia, Spain, and Colombia, with envoys extraordinary and ministers plenipotentiary, and only one—the Netherlands—with a minister. In all the other capitals, twelve in number, where the United States had diplomatic representation the post was filled by a chargé d'affairs. As against these nineteen diplomatic posts the United States had 156 consuls, vice consuls, and commercial agents in as many different capitals or ports.

Carrying out Livingston's suggestion that consular duties be specifically prescribed and fees equalized the report was accompanied by a table of instructions which were to produce uniformity in consular proceedings. The Congress, however, was not interested and no legislation carrying out these excellent suggestions was passed until 1855.

Defects in the Diplomatic Service—Secretary Livingston also made a fine report to President Jackson on the unfortunate predicament of our diplomatic officers. He indicated to what a serious extent the failure to provide adequate salaries was handicapping our representatives abroad, pointing out that at home heads of bureaus had offices, messengers, clerks, stationery, in fact, every convenience for carrying on the business in hand, while "to represent the dignity of the country, and on a scanty salary to transact its most important concerns abroad we send a man whom we provide with none of these necessities for the transaction of his business; we force him to do all the drudgery of the office with his own hands, and either to live in some obscure place, where his countrymen blush to find him fixed . . . or at the expense of his own fortune, to provide what is necessary for the interest and dignity of the Government".²⁴ Livingston's conclusions are as pertinent today as when they were made: "If the mission is useful,

²³ Senate Document # 83, 22nd Congress, 2nd Sess., 3.

²⁴ House of Representatives Ex. Doc. 94, 22nd Cong., 2nd sess., 5.

it ought to be supported at the public, not at private expense ; and the representatives of a great nation ought not to be obliged to employ, in devising parsimonious expedients for their support, that time and those talents which ought to be occupied in the service of their country ” ²⁵

Until the year 1831 since there were no salary appropriations for secretaries of legations each minister paid his own secretary and therefore regarded the copies of his despatches and sometimes his instructions as well as his own personal property. When the minister left his post he took the records with him and as a result the early records of many of the important posts are missing. Secretary Livingston in his report of 1833 found that “the archives of most of our legations exhibit only a beggarly account of empty boxes” ²⁶ and in an appendix cited statements from our diplomatic representatives abroad to the effect that the proceedings of the different missions to England from the first mission to August 1, 1826, were not recorded in the legation; that all despatches from our legation in France prior to March, 1810, were missing; and in Russia neither records nor despatches before 1823 were on file.²⁷

To make the position of minister attractive as a political reward on occasions the appointee was permitted to be paid for considerable periods of time when he was away from his post. In this way the representative might draw salary for a year or two and spend only a few weeks at his post. The mission of John Randolph of Roanoke to St. Petersburg has been cited as a notorious instance of this abuse. Henry Adams thus describes the incident: “In September, 1829, John Randolph of Virginia was offered and accepted the mission to Russia; he sailed in June, 1830, remained ten days at his post, then passed near a year in England; and returning home in October, 1831, drew \$21,807 from the government, with which he paid off his old British debt. This act of Roman virtue, worthy of the satire of Juvenal, still stands as the most flagrant bit of diplomatic robbery in the annals of the United States Government ” ²⁸

²⁵ *Ibid.*, 6. See part B of this document for numerous examples of inadequacy of salaries.

²⁶ *Ibid.*, 5.

²⁷ *Ibid.*, 12-13

²⁸ Henry Adams, *Life of John Randolph* (Boston, New York, 1882), 302.

More than twenty years elapsed before the Congress took definite action to improve the conditions in the foreign service. A beginning was made when a Senate resolution of January 31, 1851, requested the Secretary of State to communicate any information which he might possess relative to the adoption of a graduated scale of diplomatic salaries based upon the combined considerations of the importance of the mission and the expenses of residence.²⁹ Secretary of State Webster thereupon sent a circular letter to the various American diplomatic representatives requesting a statement of their expenses. The replies indicated that with few exceptions the American representative had to draw upon his own private means in order to maintain his position even in the most economical fashion.³⁰ Whereas the normal salary of a minister was \$9,000 and that of a minister resident was \$4,500, Mr. Abbott Lawrence in London was spending over \$20,000, Mr. W. C. Rives in Paris \$16,500, Mr. Neill Brown estimated that \$12,000 was the minimum, Mr. George Folsom at The Hague had an exact budget of \$12,479 86. Mr. Stanhope Prevost, diplomatic agent at Lima, averaged \$11,360 annually, but conceded that by suppressing carriage, coachman and one wet nurse he could save about one thousand dollars a year.

No action was taken until 1854, however, when the House Committee on Foreign Affairs favorably reported out a bill which was made law on March 1, 1855. This law prescribed grades, posts and salaries in both the diplomatic and consular services and limited all such appointments to citizens of the United States. Attorney General Cushing declared that the Congress only could recommend such limitations; otherwise it was usurping the constitutional powers of the President.³¹ This act was thereupon repealed the following year and a new law adopting some of the recommendations of the Attorney General was passed.

The Act of 1856—The act of August 18, 1856,³² was a landmark in the development of the foreign service of the United States and many of its provisions still hold. Salaries for ambassadors, envoys extraordinary and ministers plenipotentiary ap-

²⁹ *Senate Ex. Doc. 93, 32nd Congress, 1st Sess., I.*

³⁰ *Ibid.*, 2-53

³¹ *7 Opinions U. S. Attorney General, 215, 267.*

³² *11 U. S. Statutes at Large, 52.*

pointed to Great Britain and France were fixed at \$17,500; those to Russia, Spain, Austria, Prussia, Brazil, Mexico and China at \$12,000; all others at \$10,000. Ministers resident and commissioners were to receive seventy-five per cent of these amounts, and chargés d'affaires fifty per cent. The President was authorized to appoint secretaries of legation at various posts with compensation ranging from \$1,500 in Europe to \$5,000 in China.

Consuls and commercial agents were also to be granted fixed compensation ranging from \$500 in such posts as Cobiga and Tabasco to \$7,500 in Liverpool and London. The bill further provided that no consul or commercial agent receiving \$1,500 or more should be engaged in mercantile business. An interesting innovation of the law was the provision authorizing the President to appoint a maximum of twenty-five consular pupils at \$1,000 a year to be assigned to consulates, these appointments to be made only after an examination by the Secretary of State of the qualifications and fitness of the candidate for the office. This provision looked towards the building up of a career service. But Congress failed to make the appropriation necessary to carry out this provision and shortly afterwards repealed it. In 1864, however, another act provided for the appointment of thirteen consular clerks who were to be subject to removal only for cause stated in writing and submitted to Congress.⁸³ The underlying purpose to secure trained men to be advanced in the service failed because the clerks preferred small salaries and permanency to larger returns and uncertainty.

Another interesting provision should be noted: ". . . nor shall any diplomatic or consular officer correspond in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or otherwise than with the proper officers of the United States."⁸⁴ This injunction may still be found in law today (Rev. Stat. 1751) and is also covered in the *Instructions to Diplomatic Officers* (VIII-10).

The duties of both diplomatic and consular officers were prescribed in some detail and a tariff of fees for consular services established. A careful accounting of all fees was required. Perhaps one of the most important provisions of the law was that it

⁸³ 13 U. S. Statutes at Large, 139.

⁸⁴ 11 U. S. Statutes at Large, 59

granted the President authority to prescribe from time to time any regulations or instructions not contrary to the law in relation to the duties of diplomatic and consular officers which he might think conducive to public interest. Much of the subsequent development of the diplomatic and consular services has been based upon such regulations.³⁵

Further Efforts at Reform—The outstanding defect in the law was that appointment still rested upon political influence rather than on merit, and tenure of office depended largely upon the political situation at home. Mr. De B. Randolph, United States consular inspector, brought a scathing indictment against the service in his report published in 1882. He asserted that "almost every consulate has some defects in its history owing to the incompetency, low habits and vulgarity of some of its officers during the endless round of evils incident to rotation". Among the particular abuses he cited were the collection of illegal fees in settling estates of Americans abroad, the issuance of illegal passports and the selling of the American flag. In conclusion, he declared that "if all could be told of the consular service of the United States as illustrated in the conduct of its officials, the excess of bad over good would be so great that the most cold and indifferent citizen would blush for the name of his country".³⁶ Reports of committees on bills in Congress to remedy this situation were prepared in 1868, 1872, 1884 and 1886 but no action was taken. It was not until the second administration of President Cleveland that further definite progress was made and then solely by executive order.

It is only in recent years that the sterling statesmanlike ability of President Cleveland has been properly appreciated. During his first administration his diplomatic appointments were for the most part above the average, nor was there the clean sweep in the consular service that was generally expected.³⁷ He was an ardent advocate of government ownership of diplomatic residences

³⁵ A detailed account of the developments under the law in the consular field may be found in C. L. Jones, *The Consular Service of the United States* (Philadelphia, 1906), 13-26.

³⁶ William Slade, "Attractions and Flaws in Our Consular Service," *Forum*, XV, 163 (April, 1893).

³⁷ Samuel Flagg Bemis, *op. cit.*, VIII, 49.

abroad and in one of his messages he declared that he was "thoroughly convinced that in addition to their salaries, our ambassadors and ministers at foreign courts should be provided by the government with official residences. . . . The usefulness of a nation's diplomatic representative undeniably depends to a great extent upon the appropriateness of his surroundings, and a country like ours, while avoiding unnecessary glitter and show, should be certain that it does not suffer in its relations with foreign nations through parsimony and shabbiness in its diplomatic outfit." ³⁸

It should be noted that on March 1, 1893, just three days before President Cleveland was inaugurated, the Congress had inserted a clause in one of the regular appropriation bills to the following effect: "Whenever the President shall be advised that any foreign government is represented in the United States by an ambassador, envoy extraordinary, minister plenipotentiary, minister resident, special envoy, or chargé d'affaires, he is authorized in his discretion, to direct that the representative of the United States to such government shall bear the same designation. This provision shall in no wise affect the duties, powers or salary of such representative." ³⁹ President Cleveland took immediate advantage of this provision and as a result for the first time in its history the United States appointed ambassadors to London, Paris, Berlin, St. Petersburg, and Rome and received from these capitals representatives of similar rank.

President Cleveland was also keenly interested in the consular service and, according to report, when the copy for the 1888 edition of the *Consular Regulations* was sent to him he read the *Regulations* before approving them and said that he found them interesting.⁴⁰ In his presidential messages of 1888 and 1893 he had urged the reorganization of the consular service in order that it might become a more proficient agency. Apparently business interests at this time had become insistent upon some action being taken to improve the consular service. On January 23, 1894, the National Board of Trade passed a resolution agitating for the reform of the consular service in disregard of political affiliations.

³⁸ *Sen. Doc. No. 128, 54th Cong., 2nd sess.*

³⁹ *27 U. S. Statutes at Large, 497.*

⁴⁰ Gaillard Hunt, *op. cit.*, 333.

The *Century Magazine*, taking this resolution as a basis, sent a circular letter to a considerable number of ex-ministers of the United States asking their opinion. It published this symposium of opinions from such men as Robert T. Lincoln, former minister to Great Britain, James B. Angell, former minister to China, J. L. M. Curry, former minister to Spain, and Oscar Straus, former minister to Turkey. Only one of about a dozen interrogated found the service satisfactory and all the rest agreed unanimously upon the need to divorce the system from politics. Mr. J. R. Young, former minister to China, who was personally familiar with most of the posts in Europe and the Far East declared that from his observations "in no branch of public service does the present system do more harm than in the management of our relations with foreign nations".⁴¹

Consular Reform by Executive Order—When the Senate failed to act on the bill for the reorganization of the consular service on a merit basis favorably reported by Senator Morgan on February 6, 1895,⁴² President Cleveland decided to make a start by executive order. As a basis of justification for his action the order was prefaced by the declaration that it was "of great importance that the consuls and commercial agents of the United States shall possess the proper qualifications for their respective positions to be ascertained either through a satisfactory record of previous actual service under the Department of State or through an appropriate examination".⁴³

The order provided in substance that any vacancy in a consulate or commercial agency where the salary ranged from \$1,000 to \$2,500 should hereafter be filled in one of these ways:

1. By a transfer or promotion from some other position under the Department of State of a character tending to qualify the incumbent for the position to be filled;
2. By the appointment of a person whose previous services in the Department of State qualified him for the position;
3. By the appointment of a person who having furnished the customary evidence of character should be chosen by the Presi-

⁴¹ "Consular Service and the Spoils System," *Century Magazine*, XLVI, 306 (June, 1894).

⁴² *Sen. Report* No. 1073, 54th Cong., 1st Sess.

⁴³ *Ibid.*

dent for examination and be found qualified by such examination.⁴⁴

This order was a step in the right direction but a very short one. Examinations were held but only after the candidate had been selected and few failed to pass.⁴⁵ Only one candidate failed out of 112 who took the examinations between March 3, 1897, and March 3, 1898. Furthermore, the political pressure upon the executive for consular posts was very great and since it was claimed that the rules were proclaimed only after a considerable change in the consular personnel, the new administration of President McKinley changed 238 out of 272 salaried consuls.⁴⁶ Henry A. Garfield, writing in 1900, told of the experiences of a friend who in following the trail of a defaulter had required the assistance of the American consular personnel. This representative of a business concern declared that of the twenty consuls and commercial agents that he sought out, fully one half were unfit for the position and some of them were disreputable. Another business man with important interests abroad had found the American consul absent from his post the last two months of his term, and his successor, "a large, thick set man with the face of a retired bartender who spoke no foreign language and affected to despise all but his own—and that was peculiarly his own" wholly incompetent to help him. He had to appeal to the British consul who gave him the necessary assistance.⁴⁷

Theodore Roosevelt had gone on record as favoring a career foreign service as far back as 1894 when addressing the National Board of Trade⁴⁸ so that when he became President it was expected that he would take action. In his first message to Congress on December 3, 1901, President Roosevelt recommended a reorganization of the consular service based upon "the just principle that appointments to the service should be made only after a practical test of the applicant's fitness, that promotion should

⁴⁴ *Sen. Report, op. cit.*, 7.

⁴⁵ Jones, *op. cit.*, 28.

⁴⁶ George McAneny, "How Other Countries Do It," *Century Magazine*, XXXV, 611 (February, 1899).

⁴⁷ Harry A. Garfield, "The Business Man and the Consular Service," *Century Magazine*, LX, 268 (June, 1900).

⁴⁸ A. H. Washburn, "Some Ends of Our Consular Service," *Atlantic Monthly*, LXXIV, 241 (August, 1894)

be guided by trustworthiness, adaptability and zeal in the performance of duty, and that the tenure of office should be unaffected by partisan considerations".⁴⁹ He again reverted to the subject in his annual message of December 6, 1904, when he declared that our consular service needed improvement and that salaries should be substituted for fees, and proper classification, grading and transfer of consular officers should be provided.⁵⁰

President Roosevelt cast aside completely the spoils system in making his appointments to diplomatic and consular posts. Mr. Francis B. Loomis, Assistant Secretary of State under President Roosevelt, declared that "every vacancy that has occurred since Mr. Roosevelt became President has been filled, so far as was practicable by promoting deserving men already in the service, and such promotions have been made, generally speaking, without reference to politics or political influence." Mr. Loomis also spoke highly of the assistance rendered towards the accomplishment of this end by the two Secretaries of State who served under President Roosevelt: "No man fought more persistently and valiantly to lift the Consular Service from the plane of partisan politics than Mr. Hay. . . . His successor, Mr. Root . . . has taken up the work at the advanced point where Mr. Hay laid it down, and already his influence has made itself felt to the great advantage of the whole American foreign service."⁵¹

The first tangible evidence of a change in appointment procedure came with the issuance of two executive orders dated November 10, 1905. The first extended the scope of the executive order of September 20, 1895, as regards examinations for the consular service to include all officers whose compensation was not less than \$1,000 annually. The second required that vacancies in the office of secretary of embassy or legation should be filled thereafter by transfer or promotion or by appointment after an examination.⁵² A departmental order issued the same day by Secretary Root set up an examining board to determine the qualifications of applicants designated by the President. The order further

⁴⁹ J. D. Richardson, *Messages and Papers of the Presidents*, IX, 6672 (December 6, 1904).

⁵⁰ *Ibid.*, 7024

⁵¹ Francis B. Loomis, "The Proposed Reorganization of the American Consular Service," *North American Review*, CLXXXII, 359 (March, 1906).

⁵² *Senate Document* No. 359, 59th Cong., 2nd Sess., 9.

provided for oral and written examinations in international law, diplomatic usage, and modern languages.⁵³ President Taft and succeeding Presidents followed and extended this excellent precedent.

The Statute of April 5, 1906—Congress also was finally convinced of the need for reform in the consular service and on April 5, 1906, it passed an act completely reorganizing this branch of the foreign service.⁵⁴ Consuls general and consuls were classified and graded in nine classes ranging in salary from \$2,000 in such small posts as Niagara Falls, Rouen, and Gibraltar to \$12,000 for the ports of London and Paris. To achieve efficiency five inspectors of consulates were to be appointed by the President and every consular establishment was to be inspected at least once in every two years. Positions in the service paying \$1,000 or more a year were to be held by Americans only, nor were any officers of this class to carry on any private business. Fees for notarial services were prescribed and all fees had to be accounted for and paid into the Treasury.

President Roosevelt followed this act by an executive order dated June 27, 1906, prescribing regulations governing appointments and promotions in the consular service in accordance with the provisions of the Civil Service Act of January 16, 1883. All appointments to classes 8 and 9 were to be filled either (1) by the promotion of vice consuls, consular clerks, deputy consuls or consular agents, or (2) by new appointments of candidates who had passed a satisfactory examination for appointment as consul. Vacancies in all classes above 8 and 9 were to be filled by promotion based upon efficiency "as shown by the work that the officer has accomplished, the ability, promptness and diligence displayed by him in the performance of all his official duties, his conduct".⁵⁵

Inasmuch as the appointments under the civil service were dependent entirely upon presidential prerogative, there was some fear lest the next administration would revert to the spoils system. President Taft, however, not only continued the merit system but by an executive order dated November 26, 1909, conferred a

⁵³ *Senate Document No. 359, op. cit., 10.*

⁵⁴ *34 U. S. Statutes at Large, 99.*

⁵⁵ *Senate Document No. 359, op. cit., sect. 10.*

similar civil service status upon all diplomatic officers below the rank of minister.⁵⁶

The foreign service of the United States had at last been established on a merit basis for the entire consular branch and for all diplomatic officers beneath the rank of minister. As a result the quality of the service rapidly improved and businessmen and travellers no longer had to look up the British consul rather than the American for help in solving serious or technical problems. At the outbreak of the World War our foreign service compared favorably with that of Great Britain and France even though we spent much less upon its development and its equipment.

⁵⁶ Text in Hunt, *op. cit.*, 344-348.

CHAPTER VIII

POST-WAR DEVELOPMENT OF THE AMERICAN DIPLOMATIC AND CONSULAR SERVICE

The Spoils System Returns—When Woodrow Wilson became President in 1913 the Democrats had been out of office for sixteen years and it was but natural that considerable pressure should be put upon him to return the consular service to the spoils system. He refused categorically and the executive order of Elihu Root was maintained in force. In the diplomatic service, however, the record was not so satisfactory. William Jennings Bryan, the new Secretary of State, was a politician and as such appreciated party services. As a result many career diplomats who held positions as ambassadors or ministers, particularly in Latin American countries, were forced to surrender their posts to new appointees who were little more than hack politicians. Among the most flagrant examples was the appointment of James M. Sullivan, a New York police court lawyer intimate with Bald Jack Rose, the gambler, to the Dominican Republic. Senator Phelan of California who was later commissioned by Secretary Bryan to investigate charges against Mr. Sullivan found that "the candidate was vigorously supported by persons having large financial interests in Santo Domingo with the intention and in the hope of securing pecuniary profit through the incumbency in office of a minister who was friendly and under obligation. . . ." Senator Phelan recommended Mr. Sullivan's resignation or recall.¹

One of the ablest career men in the service, W. W. Rockhill, Ambassador to Turkey, after almost thirty years' service was permitted to resign to be succeeded by Henry Morgenthau, chairman of the Democratic Finance Committee and a heavy campaign chest contributor. Another career man, John B. Jackson, minister

¹ *Report on the Foreign Service*, National Civil Service Reform League, 125, 127 (New York, 1919).

to Bulgaria, Rumania and Serbia, with more than twenty years' service was succeeded by Charles J. Vopicka, a Chicago politician. Mr. Jackson thus explains the reason for his retirement: "In reply to my own inquiry I was informed by President Wilson, between his election and his first inauguration, that he approved of the practice which had existed generally (even when Mr. Roosevelt succeeded himself) that all chiefs of mission should submit their resignation to a new President. Accordingly my resignation was in the President's hands on March 4, 1913. I said that I should be glad to continue in the service in which I had been continually for more than twenty years. At that time the Balkan war was going on, and no attention was paid to my resignation until the following August. Then two days after I had notified the State Department by telegraph that peace had been signed at Bucharest, I was informed also by telegraph, that my resignation had been accepted."²

The appointment of a Mr. Pindell from Illinois to serve as ambassador to Russia for a single year in order to enhance his family's social standing received so much unfavorable publicity in the press that his name was withdrawn.

Congressman John Jacob Rogers of Massachusetts thus summarized the Bryan appointments: "When President Wilson was inaugurated in 1913 there were forty-one United States ambassadors and ministers. With respect to previous diplomatic experience these were classified as follows: one had been ambassador at a previous post; five had been promoted from minister to ambassador; four had been ministers at a previous post; fourteen had been secretaries in the diplomatic service; three had been consuls; one had been both secretary and consul; thirteen had been appointed without previous diplomatic experience. What has been the history of the last six years? Four of the forty-one are still in the service. Fifty-one men have been appointed ambassador or minister since March, 1913. Only two of the fifty-one so appointed have been secretaries or indeed have had previous diplomatic experience of any kind."³ It should be noted, however, that nominations to important diplomatic posts have regularly been of a

² *Report on the Foreign Service*, National Civil Service Reform League, 136.

³ *Congressional Record*, LVII, Pt. 2, 1826 (January 21, 1919). Cf., however, Charles Seymour, *The Intimate Papers of Colonel House* (New York, 1926), I, 177, for a more favorable view.

political nature, and in this respect the Wilson administration merely followed Republican precedents.

Fortunately the appointment of men like Walter Hines Page to Great Britain, Thomas Nelson Page to Italy, Henry Van Dyke to Holland, Brand Whitlock to Belgium, and Paul Reinsch to China meant that in the critical conditions which were to follow the United States could count on able representatives in most of the key posts.

Statute of February 5, 1915—Fearing lest the progress made merely by executive order in the development of a career service under Presidents Roosevelt and Taft might be lost, a number of organizations began a campaign to establish greater permanency in the system by means of congressional enactment. The result of this pressure was the law of February 5, 1915.⁴ According to its provisions appointments henceforth in both the diplomatic and consular service were to be made to a certain grade or class in either service rather than to a post and the President was authorized to assign or transfer to these classes as the interests of the service required. Consuls general were divided into five classes ranging in salaries from \$4,500 to \$12,000; consuls in nine classes from \$2,000 to \$8,000. Diplomatic secretaries, however, were apparently still expected to be chosen only from wealthy families as their remuneration began with \$1,200 in class five and reached the maximum of \$3,000 in class one.

Perhaps the most important provision of the law was that of Section I which permitted any diplomatic or consular officer to be assigned for duty in the Department of State without loss of grade, class or salary for a period of not more than three years, unless the public interests required further service when one additional year was permitted.

By this law the entire foreign service below the rank of minister was put upon a merit basis providing that the President desired it. The provision for an appointment to a class rather than to a specific post practically necessitated that all positions of importance be filled by career officers. Few candidates for political jobs were desirous of a position which might pay them \$1,200 for their services in such a city as Tegucigalpa or Port au Prince.

⁴ 38 U. S. Statutes at Large, 805. (Popularly known as the Stone-Flood Bill.)

The World War Forces Reorganization—The World War was destined to have almost as much influence on the development of the foreign service as it did on the development of the Department of State. At the very outbreak of the War the American diplomatic service was asked to take charge of numerous belligerent embassies and legations; assumption of these additional duties in the case of certain posts tripled or quadrupled their work. The inquiries from home for the whereabouts of Americans traveling in Europe completely deluged the clerical forces in the large capitals. Few Americans possessed passports and those not so supplied found to their dismay that passports had suddenly become an essential requirement. The Paris Embassy issued 4,500 emergency passports in one week following the outbreak of war.⁵ The sudden and very considerable expansion of American trade put additional burdens upon the consuls, yet large numbers were ordered to return to Washington to fill important technical positions in the Department of State.

As a result many appointments were made both in the diplomatic and consular service without examinations of any sort, but in all cases it was understood that an examination would be required before the appointment should be regarded as giving the appointee the status of a diplomatic secretary or consul of career. In the years 1914–1916 inclusive some thirty appointments were made to the post of diplomatic secretary as against a dozen in the three preceding years.⁶ In the consular service the ratio of increase was considerably greater. Some 480 new commissions in this service were issued in the years 1914 to 1916 inclusive, as compared with less than 100 in the three preceding years.⁶

When the War was over among the pressing problems facing the United States was the necessity of reorganizing the entire machinery for the conduct of our foreign relations to meet the responsibilities entailed by the fundamental changes in the world's system of states and our new preponderance of power and wealth. In a letter dated January 21, 1920, to John Jacob Rogers, a member of Congress from Massachusetts, Secretary of State Robert Lansing well expressed the situation:

⁵ Beckles Willson, *America's Ambassadors to France* (London, 1928), 395.

⁶ Figures obtained from an analysis made from the table in the *Register of the Department of State, December 15, 1916* (Washington, Government Printing Office, 1917).

The machinery of government now provided for dealing with our foreign relations is in need of complete repair and reorganization. As adequate as it may have been when the old order prevailed and the affairs of the world were free from the present perplexities, it has ceased to be responsive to present needs. . . .

Necessity is forcing new nations and even older ones to incur obligations and form political affiliations having a decisive if not a supreme bearing on the course of future events. International movements of such import can only be correctly judged through an accurate knowledge of causes and influences and a complete understanding of the methods and motives involved. American agents in the foreign field must broaden the scope and intensify the nature of their work in order that the Department of State may have at its disposal knowledge of the actual facts of every development or turn of events. Any degree of conjecture is fraught with the gravest danger. . . .⁷

After showing the need of reorganization in the Department of State Secretary Lansing turned to the diplomatic service and pointed out the need for higher salaries, the desirability of government owned embassies and legations and the advantage of bringing the diplomatic and consular services together by establishing an interchangeable system.

Representative Rogers had already introduced three bills during the year 1919 for the reorganization of the diplomatic and consular service but no action on them had been taken. He persisted in his attempts and in 1923 managed to get his bill passed by the House of Representatives. However, due to the legislative jam occurring in the short session, the Senate adjourned before reaching this bill on its calendar. The following year Mr. Rogers was more successful and the famous bill bearing his name passed the House May 1, 1924, by a vote of 134 to 27, passing the Senate by unanimous consent on May 15, 1924. It received the approval of President Coolidge on May 24, 1924, and went into effect on July 1, 1924.

The Act of May 24, 1924—The Rogers Bill was not a radical departure in any respect but rather the culmination of a long struggle to take the foreign service definitely and permanently out of politics. No longer could the political ward-heeler look to his

⁷ *Foreign Service of the United States. Hearings before the Committee on Foreign Affairs, H. R. 68th Cong., 1st sess., 30-31.*

Congressman for a job as consul in some foreign land whose stark realities were in no way disclosed by its euphonious name. Merit alone was to serve as the basis of appointment and promotion, and for the first time in American history the new salary scale provided by the bill permitted a diplomatic secretary to live in a respectable fashion without drawing upon his own private sources.

Henceforth the diplomatic and consular services were to be known as the Foreign Service and the term Foreign Service officer was to denote permanent officers below the rank of minister. All appointments were by commission to a class and not to any particular post. All diplomatic secretaries and consuls were divided into nine classes with salaries ranging from \$3,000 in Class IX to \$9,000 in Class I. Vice consuls of career, consular assistants, interpreters and student interpreters were placed in an unclassified group with salaries from \$1,500 to \$3,000.

Except for consuls general of class I this salary scale was higher for consular officials inasmuch as the previous consular salary scale ranged from \$2,000 to \$8,000. For diplomatic secretaries the increases were still greater since their salaries had ranged from \$2,500 to \$4,000.⁸ Furthermore, the Act authorized the President to grant representation allowances to diplomatic missions and to consular missions at capitals where no diplomatic missions existed from money appropriated for such purpose by Congress.

The most important and original feature of the reorganized service was the amalgamation of the diplomatic and consular branches into a single foreign service on an interchangeable basis. Until this time a candidate had to choose in advance which service he wished to enter and once started no change was possible. Yet experience might prove to him that he both preferred and was better equipped to work in the branch which he had not entered. The new arrangement made for greater flexibility and permitted the State Department by transferring the officers from one service to the other to determine in which position the officer was the more useful.

Another advantage of the interchangeability feature was the

⁸ The Act of February 5, 1915, which fixed the maximum secretarial salary at \$3,000 had been amended by the Act of June 4, 1920 (41 *U. S. Statutes at Large*, 740) which raised it to \$4,000.

lever afforded to break down a certain degree of snobbery which existed in the foreign service. The social status of the two services had always been on different planes due to long continued international practice. As a result many rich men's sons went into the diplomatic service for the social position which it afforded. The possibility that they might have to enter the consular service first and even be kept there or might be transferred from the diplomatic to the consular service took away some of the social glamour and it was hoped would gradually weed out the so-called white-spat brigade.

Mr. Hugh Gibson, at that time United States Minister to Poland, in testifying before the House Committee on behalf of the Rogers Bill declared: "You hear very frequently about the boys with the white spats, the tea drinkers, the cookie pushers, and while they are a very small minority they make a noise entirely disproportionate to their numbers. . . . They are a reproach to us and when an American goes into one of our missions abroad and . . . is received by one of these second raters of whom we hear so much, he remembers it for years and he is very properly indignant at it " ⁹

The new law also permitted dual commissions to be issued to a foreign service officer so that it opened the way to combining diplomatic and consular posts in the smaller capitals. This procedure would make for greater efficiency and at the same time reduce the expense of maintaining two separate establishments.

The Rogers Bill provided specifically for a classified service to which all appointments would be made after examination and a suitable period of probation and all promotions were to be made on the basis of merit. Provision was made for the Secretary of State to recommend to the President for promotion to the grade of minister any foreign service officer who had demonstrated special capacity by reason of efficient service. In cases of such promotion the law provided that the officer should still be entitled to all the benefits of retirement and disability which the act provided.

Foreign Service Retirement Fund—Strangely enough, until the passage of the Rogers Act no provision had even been made

⁹ *Hearings, op. cit.*, 40

for retirement pay or disability allowances for foreign service officers. The officers of the army and navy were well taken care of in this regard, but the foreign service officer with a smaller base pay received no consideration whatsoever. As a result the government had to retain officers advanced in years, thus impairing the efficiency of the foreign service. Otherwise, after many years in the service and with no savings possible under the small salary scale which they received, officers must be discharged as unfitted and too old for other work.

In the hearings before the House Committee considering the bill Mr. Julius Lay, a former American consul with some thirty years' experience in the service, stated that after he had exhausted his private means by subsidizing Uncle Sam for so many years he was forced to leave the service principally because he had no means for his old age after he should retire. If the Rogers Bill had been in force he declared he would never have left the service. Incidentally, an international bank found Mr. Lay's services of sufficient value to pay him several times as much as he had ever received while consul.¹⁰

The new law created a special fund to be known as the Foreign Service Retirement and Disability Fund. This fund was to be obtained by a contribution of five per cent of their base salaries by all foreign service officers plus a certain sum to be contributed by the government. It was estimated that after the system reached its normal basis the government's contribution would amount to twenty-eight per cent of the amount required. Retirement was automatic at the age of sixty-five with the President authorized to retain an officer on active duty for an additional five years for the interests of the service. The scale of annuities depended upon length of service. The officer with fifteen years of service would receive thirty per cent of his basic salary while the officer with thirty or more years of service would receive sixty per cent. Service at posts classified as unhealthful counted for time and a half in reckoning length of service for retirement.

The Foreign Service Personnel Board—The Rogers Act authorized the President to prescribe certain rules and regulations

¹⁰ *Hearings, op. cit.*, 76.

for administering the Foreign Service and President Coolidge by an executive order dated June 7, 1924 (effective after July 1, 1924) proceeded to carry out this provision. A Foreign Service Personnel Board consisting of the Undersecretary of State, two Assistant Secretaries of State and an Executive Committee composed of three high ranking foreign service officers was established to examine into the efficiency records of foreign service officers and recommend for promotion on the basis of these records. The Board was also authorized to recommend for transfer into the foreign service any officer of the Department of State with at least five years' continuous service whose ability and merit warranted it. This provision it was hoped would level the barrier which existed between the drafting officer and the career officer. The Board could also recommend for promotion to the position of minister those foreign service officers who had demonstrated special capacity.

A Board of Examiners was also named and the type of examination and the essential subjects to be included were specified. Rules for eligibility were laid down and a Foreign Service School was established in the Department of State for the instruction of the successful candidates.

The machinery for reorganizing the foreign service was now available and the Foreign Service Personnel Board began work immediately. Joseph C. Grew, a career officer, was Undersecretary of State and of the two Assistant Secretaries who aided him, Wilbur J. Carr and J. Butler Wright, the latter was also a career officer. The three members of the Executive Committee who by law were required to be career officers were Charles C. Eberhardt, Chairman, Hugh R. Wilson representing the Diplomatic Service and Edward J. Norton representing the Consular Service.

As contemplated by the Act a considerable number of promotions were made very promptly and a new enthusiasm was instilled into the service. Unfortunately the two services were still considered separately by the Personnel Board in making the promotions and the diplomatic branch got more than its proportionate share. Dissatisfaction was openly expressed and Congressman Edwards of Georgia on February 16, 1927, introduced a resolution in the House of Representatives requesting the Secretary of

State to furnish the House certain information concerning appointments in the Foreign Service of the United States.¹¹

Inequalities in Administering the Rogers Act—About a month later Lawrence Dennis, First Secretary of the American legation at Managua, a career officer of independent means, resigned from the service because he claimed that wealth and social position were the determining factors in promotion to desirable posts in the foreign service.¹²

It was also alleged that members of the Foreign Service Personnel Board gave themselves and their friends preference both in promotions and posts and as evidence it was noted that two of the members of the Board, J. Butler Wright and Hugh Wilson, received choice diplomatic appointments as ministers to Hungary and Switzerland, respectively, on the same day, February 20, 1927, and shortly afterwards Joseph C. Grew who had been Chairman of the Board was appointed Ambassador to Turkey.

As a matter of fact the names of J. Butler Wright and Joseph C. Grew were never brought before the Board since as Assistant Secretary of State and Undersecretary of State respectively they were not within its jurisdiction. Secretary Kellogg stated that he himself was responsible for recommending to the President the names of Mr. Wright and Mr. Grew and the latter was very reluctant to accept the ambassadorship to Turkey. Mr. Wilson's name came before the Board as that of a career officer legally eligible for promotion to the post of a vacant ministership.

Secretary of State Kellogg made a report to the Foreign Relations Committee of the House on July 26, 1927, conceding that a disproportionate number of promotions had occurred in the diplomatic branch and promised to make an equal number of promotions in the consular branch to equalize the situation. This did not entirely satisfy those interested in the welfare of the reorganized foreign service and Senator Harrison of Mississippi on December 17, 1927, introduced a resolution in the Senate similar to that of Representative Edwards requesting an investigation of the administration of the Rogers Act and particularly the work of the Foreign Service Personnel Board. The findings of the Com-

¹¹ *Congressional Record*, LXVIII, 4012.

¹² *New York Times*, March 12, 1927.

mittee on Foreign Relations of the Senate after a careful investigation was made by a subcommittee of three Senators (Moses, Reed and Harrison) stated that "the application of the Act of May 24, 1924, had been approached in a manner far at variance from the purpose of the legislation".

In the first place the high executives of the State Department who served as members of the Personnel Board were too busy with matters of policy to give adequate attention to the promotion of personnel. In the second place the diplomatic branch exercised the greater influence in the operation of the Rogers Act and secured for themselves the greater benefits. As evidence of this the Report pointed out that of the total of 214 promotions in the foreign service during the first two and one-half years of the new legislation sixty-three per cent of all diplomatic officers were advanced while only thirty-seven per cent of the consular officers were so favored.

It was found that the initial injustice in the application of the Act arose from the use of a double list—one diplomatic and one consular—in making promotions, a procedure not contemplated by the Act. The sub-committee also pointed out that those who had served on the personnel board were high in the lists of promotions, and recommended that the handling of foreign service personnel should be wholly divorced from the personnel itself. The sub-committee also recommended a certain amount of automatic promotion by salary grades within classes and a greater fluidity between the diplomatic and consular branches.¹³

To bring about these improvements two very similar bills to amend the Rogers Act of 1924 were introduced, one by Senator Moses and the other by Mr. Rogers, on the same day that the Report was made. However, the 70th Congress failed to act on these measures and it was not until 1931 that the so-called Moses-Linthicum Act was passed amending the Rogers Act.

Financial Aids to the Service—In the meantime in the Appropriation Bill of the Department of State for the fiscal year ending June 30, 1930, provision was made in the contingent expenses within limits of any appropriation made by Congress "to furnish

¹³ *Report of the Senate Committee on Foreign Relations*, No. 1069, 70th Cong., 1st session (May 3, 1928)

the officers and employees in the foreign service with living quarters, heat, light and household equipment in government owned or rented buildings at places where it would be in the public interest to do so." ¹⁴ However, the restrictive clause placed the responsibility upon the Secretary of State to decide, whereas an outright allowance for rent, light and heat to every foreign service officer stationed abroad was necessary if career men were to be able to live on their salaries. This requirement was met by the Act of June 26, 1930, which provided living quarters including heat, fuel and light for civilian officers and employees of the government stationed in foreign countries providing they are citizens of the United States ¹⁵ This piece of legislation which helped materially to take from the shoulders of the suddenly transferred officer the burden of penalties exacted for a cancelled lease of his residence and the quick sale of those of his household effects unsuited for his new post has been of inestimable value.

The Act of February 23, 1931—The Moses-Linthicum Act which became law February 23, 1931, and took effect on July 1, 1931, is the present organic act of the foreign service. It is in reality two acts—the first grading and classifying clerks in the foreign service, the second an overhauling of the Act of 1924.

As regards clerks,—those receiving from \$3,000 to \$4,000 are classed as Senior Clerks and those below that level as Junior Clerks. Appointments to the class of Senior Clerks are limited to American citizens and are made by promotions from the ranks of Junior Clerks for efficient service. Post allowances were now made available to clerks where the cost of living made it necessary. Henceforth no clerk not an American citizen could serve in any diplomatic mission.

The classification of the officers in the foreign service was slightly modified, reducing the number of classes from nine to eight, but increasing the salary scale to a slight extent. According to Section 10 of the Act of 1931 the salary scale in Class I is from \$9,000 to \$10,000 while in Class VIII it is from \$3,500 to \$3,900. The unclassified group receives from \$2,500 to \$3,400

Both representation and post allowances were authorized and

¹⁴ 45 U. S. Statutes at Large, 1098.

¹⁵ 46 U. S. Statutes at Large, 818.

an annual leave with pay of sixty days included. In case the officer returns to the United States the time spent in going and coming is not counted. Provision was also made for sick leave with pay amounting to fifteen days a year. Contributions to the retirement fund were limited to a maximum of thirty years, and if an officer should become separated from the service through disability before reaching the age of retirement the total amount of his contribution with interest at four per cent instead of seventy-five per cent of the amount contributed is to be returned.

Elaborate provisions were made for the reorganization of the Board of Foreign Service Personnel. For example, no foreign service officer below Class I could be assigned for duty in the Division of Foreign Service Personnel. Nor could such officers during such assignment or for three years afterwards be eligible for positions as minister or ambassador. Detailed regulations were also prescribed for the compiling and checking of efficiency records. Automatic salary advances of \$100 annually in the four lower classes and of \$200 for the four upper were provided to avoid the stagnation which had been noted as a disadvantage under the former system. A few other administrative changes were made such as the establishment of district accounting and disbursing offices in certain areas and the setting up in the Department of State of the Office of Legal Adviser in place of the Solicitor of the Department of State.

This brief outline of the changes incorporated as amendments in the original Rogers Bill indicates that a careful effort was made to remedy all noticeable defects in the previous legislation. Under the Act of 1931 the foreign service finally received recognition of its essential value as a highly trained technical force and the machinery was immediately set up by administrative orders dated June 8, 1931, to make the Act effective. The Board of Foreign Service Personnel was reorganized so as to make its decisions absolutely impartial. A new Board of Examiners was set up and a more complete organization of the Foreign Service Officers Training School was worked out. The executive order of June 8, 1931, also provided for the allocation of post allowances so that in the words of Assistant Secretary of State Carr "the Foreign Service had finally attained the goal for which Presidents, Secretaries of State and the business men of the

country had striven for years, namely a reasonable, adequate provision in the way of pay and allowances for the men who served the United States in a diplomatic or consular capacity in foreign countries.”¹⁶

Serious Effects of the Economic Depression—Unfortunately the severe results of the economic depression began to be felt almost simultaneously with the coming into effect of the Moses-Linthicum Act with resulting hardships in the foreign service. Not only were no promotions possible, but the several economy acts of Congress reduced salaries fifteen per cent, abolished post and representation allowances, and reduced rental allowances for foreign service officers sixty-five per cent.¹⁷ When this was followed by the depreciation of the dollar in April, 1933, and its subsequent lower revaluation, the financial position of American officials abroad became unendurable. Those who had private incomes drew upon them to pay their own way and in some cases that of their subordinates. Families were sent home to relatives to lighten the burden, leasing arrangements were cancelled with resulting penalties, life insurance policies were sacrificed, children taken out of school and even necessary food was not always available.

President Franklin Roosevelt immediately requested an appropriation from Congress to help American officials abroad who had suffered because of the depreciated value of the dollar but to no avail. He thereupon in July, 1933, ordered gold sent abroad to a depository so that salary checks might be converted into foreign currency at mint par. This arrangement, however, only helped in some countries while officers in other places remained without relief, even this expedient ceasing in January, 1934, with the revaluation of the dollar.

The Congress was finally prevailed upon to remedy the situation, and in the State Department Appropriation Bill for the fiscal year 1935 a substantially increased rental allowance amounting to \$954,000, and post allowances to equalize the cost of living amounting to \$300,000 were authorized. A bill was also passed

¹⁶ *American Foreign Service Journal*, XI, 66 (February, 1934).

¹⁷ Congressional appropriations for rent, heat and light allowances were as follows. 1931, \$664,000; 1932, \$1,440,000; 1933, \$686,000; 1934, \$439,000.

on March 26, 1934, known as the Exchange Bill ¹⁸ which provided for the payment of American officials stationed abroad in dollars equivalent to their approximate conversion value before the United States went off the gold standard. An executive order dated March 27, 1934, prescribed the regulations governing such payments to take effect as of January 1, 1935, and it also provided for reimbursement of losses retroactively to July 15, 1933. The Congress also restored five per cent of the salary cut on February 1, 1934, and another five per cent on July 1 of the same year. In the State Department Appropriation Bill for 1936 provision was made for the restoration pursuant to the direction of the President of the remaining five per cent of the salaries on July 1, 1935. Departmental orders dated April 15, 1934, and July 3, 1934, classified both posts and officers for the allocation of post allowances, so that before the end of the year 1934 the foreign service had practically regained its financial status as contemplated by the Moses-Linthicum Act.

The foreign service, however, was still seriously undermanned inasmuch as no examinations had been held since 1932 and every year a certain number of officers were necessarily separated from the service. In the hearings held before the Subcommittee on Appropriations of the House of Representatives Secretary of State Hull on January 4, 1935, pointed out that there were eighty-two foreign service officers less than there had been in 1928 and a further reduction of thirty to forty was contemplated. When it is remembered that the setting up of the new state of Iraq in 1932, and the recognition of Russia in 1933 necessitated the allocation of a dozen career officers from the diminished number the situation can be appreciated.

In a statement made December 11, 1934, to the House Subcommittee in the State Department Appropriation Bill for 1936 Assistant Secretary of State Carr declared: "On July 1, 1932, the number of Foreign Service officers was 762. At the time these budget estimates were prepared, the number had been reduced through decreased appropriations and otherwise to 688, a reduction of 71, or nine and seven tenths per cent. Of the 688 provided for in the budget 7 are language officers, studying the Chinese, Japanese and Russian languages and 36 are on duty in the Depart-

¹⁸ 48 U. S. Statutes at Large, 466.

ment of State in Washington where they are performing important and indispensable service. There are thus left only 645 officers from which to supply all the diplomatic secretaries, consuls general, consuls and career vice consuls at 318 embassies, legations, consulates general and consulates in all parts of the world. . . . As our most important embassies, legations, consulates general, and consulates require a larger number than two Foreign Service officers, in some cases as many as six or eight, it follows that a great majority of officers have to function with one Foreign Service officer. This, too often, is entirely inadequate and is not sound administration.”¹⁹

Present Organization of the Diplomatic and Consular Service—The American diplomatic and consular service as organized at present consists first of seventeen embassies in the capitals of the principal countries of the world or of the countries whose interests are closely allied with those of the United States. For example, due to the importance of our political and economic relations with Latin America, not only do we have ambassadors at Buenos Aires, Rio de Janeiro and Santiago, Chile, but also in Mexico City, Havana and Lima. As a mark of recognition of Belgium's valiant defense of her territory in the World War the United States raised her legation in Brussels to an embassy in 1919. The diplomatic staff in Brussels is also accredited to Luxembourg. The legation in Warsaw was raised to an embassy in 1930 and the legation in Peiping in 1935. The salary of an ambassador is \$17,500 a year with a maximum rent, heat, and light allowance of \$3,000. Small representation allowances are also sometimes available and under exceptional conditions post or cost of living allowances as well. In the expensive capitals an ambassador would still have great difficulty in maintaining his position without a considerable outlay from his private means.

The next in rank are ministers plenipotentiary of which the United States has thirty-seven. There are in reality about forty-three legations because the minister to Lithuania also serves as minister to Latvia and Esthonia, and Luxemburg also ranks as a legation. We also designate as legations the two posts Addis

¹⁹ Department of State Appropriation Bill for 1936; *Hearings, 74th Congress, 1st Session, 150-151.*

Ababa, Ethiopia, and Baghdad, Iraq, where ministers resident are sent. Tangier, Morocco, is also classified as a legation, although the incumbent is ranked as a diplomatic agent and consul general. All ministers plenipotentiary receive a salary of \$10,000 a year except the minister to The Hague who receives \$12,000. Ministers also may receive a maximum of \$3,000 for rent allowance with possibilities of small representation and post allowances in addition. Ministers resident and diplomatic agents are regularly high ranking foreign service officers and as such are paid in accordance with their classification.

Under the heads of mission in practically all important posts are diplomatic secretaries who receive the title of counselors of embassy or legation. At the present time there are fifteen counselors of embassy and eight counselors of legation. In a few rare cases the counselor may also be commissioned as consul general. Under the counselor we may have first, second and third secretaries depending upon the size and importance of the post. In addition to the officers under the Department of State, in the important posts are stationed military, naval and commercial attachés and in a few cases agricultural and treasury attachés. There are also the necessary clerks, private secretaries, messengers and doormen in all diplomatic posts.

There are at present seventy-three consulates general in the American foreign service of which thirty-four are ranked as supervisory consulates general. There are about one hundred twenty consulates, about sixty-five vice consulates and about thirty-two consular agencies. Thus there are altogether about 290 consular posts. As the present tendency, however, is to grant dual commissions it will not be long before most of the smaller capitals will be regarded as a single post with both diplomatic and consular rank and duties. Inasmuch as all foreign service officers are now sent first of all to a consular post, the foreign service of the future will consist of a personnel appointed and promoted on a basis of merit and commissioned to perform both diplomatic and consular functions.

CHAPTER IX

APPOINTMENT OF DIPLOMATIC OFFICERS

The Right of Legation—It is generally conceded by the principal authorities in international law that every sovereign independent state enjoys the right of representation or legation. It is sometimes considered as an active right from the standpoint of sending and a passive right from the standpoint of receiving. Wheaton claims the right of legation is an imperfect right¹ but Oppenheim, Pradier-Fodéré, Fauchille, Satow, Hershey and others would seem to consider it fundamental. Gentilis declares the right to be "immutable, of universal application, and admitted and recognized by even barbarous peoples."² Vattel in his lucid fashion explains the reason: "Nations must necessarily treat and have intercourse with one another in order to advance their interests, to avoid injuring one another and to adjust and terminate their disputes. And since they are all under the indispensable obligation of uniting their efforts to promote their common welfare and safety and of arranging for themselves a means of settling and terminating their disputes . . . it follows from the above reasons that each Nation possesses both the right to negotiate and have intercourse with the others, and the reciprocal obligation to lend itself to such intercourse as far as circumstances will permit it to do so."³

Inasmuch as heads of states cannot treat with one another directly in a convenient practicable fashion we have already shown the almost immemorial practice of sending diplomatic missions. It was formerly a moot question as to whether semi-sovereign states possessed the right of legation. Heffter conceded it, but Calvo, F. de Martens and Travers-Twiss reserved it to sovereign

¹ Lawrence's *Wheaton* (London, 1864), 374.

² Alberico Gentili, "De Legationibus" (Libri Tres, 1594), *Classics of International Law*, J. B. Scott, ed. (New York, 1924), 58.

³ E. de Vattel, "The Law of Nations," *Classics of International Law*, J. B. Scott, ed. (Washington, 1916), 362.

states. The question is no longer of importance inasmuch as autonomous states assume the right. For example, Canada, the Irish Free State and the Union of South Africa all send and receive diplomatic representatives. Even a protectorate today may have diplomatic representation, as shown by the fact that the United States still has a diplomatic agent at Tangier. However, it must be conceded that his dealings with Morocco must be carried on through the French Governor-General at Rabat rather than directly with the Sultan at Fez.

The Vatican's Right of Legation—The position of the Vatican in this respect is rather an anomalous one. By tradition and long established usage the Pope still sends and receives diplomatic agents, but although his envoys enjoy the privileges and immunities of diplomatic agents they are in reality ecclesiastical rather than international officials.⁴ The right of the Holy See to diplomatic representation was not particularly affected by the annexation of the Papal States to the Kingdom of Italy, although some states ceased to send diplomatic representatives. The United States which had been represented at the Holy See since 1848 by either a chargé d'affaires or a minister resident ceased to send diplomatic envoys in 1869. President Grant in his message to Congress in 1869 declared that he had been officially informed of the annexation of the Papal States by Italy and the United States had recognized the change in the status of their sovereignty by no longer accrediting a diplomatic agent.

Maurice Francis Egan in his biography states that President Theodore Roosevelt in his earnest desire to settle the religious difficulties in the Philippines, suggested that Egan should go to Rome unofficially to obtain the Pope's reaction to the situation, and that he might be sent later to the Quirinal as ambassador, or if public opinion approved as minister to the Vatican. Egan, however, although a good Catholic, felt that it would be a misfortune to reopen diplomatic relations with the Vatican and nothing further came of it.⁵ Instead, William H. Taft, at that time civil Governor of the Philippines, was sent as a special agent of the

⁴ Cf. Amos Hershey, *The Essentials of International Public Law and Organization* (New York, 1927), 165.

⁵ Maurice Francis Egan, *Recollections of a Happy Life* (New York, 1924), 198.

President to ascertain the attitude of the Vatican on the purchase of the friars' lands by the United States government. Governor Taft's commission stated specifically that his errand was in no sense diplomatic but purely a business matter.⁶

It should be stated, however, that a papal legate is usually sent to important states even though not officially received, and as such the Pope has generally sent his legate to Washington. Some presidents have received them strictly informally, but President Theodore Roosevelt seemed to prefer to deal with his old friend, Father Duffy, a simple priest.

Since the Fascisti régime has once more brought about friendly relations between the Quirinal and the Vatican by the Lateran Treaties of 1929 diplomatic relations between Vatican City and Italy have been resumed. At the present time the Holy See maintains diplomatic relations with twenty-five countries through nuncios and with six by internuncios.

Executive Control of Diplomatic Appointments—In federal systems of government the right of representation logically belongs to the central government. The Constitution of Brazil of 1891 (Art. 48) gives the President exclusive competence to appoint diplomatic ministers and to maintain relations with foreign powers. The Constitution of 1860 of the Argentine Republic (Art. 86) gives the President powers to appoint ministers and to negotiate treaties. The Mexican constitution of 1917 (Arts. 73, 89) gives the Congress power to enact laws for the organization of the diplomatic corps and the President the power to appoint ministers. The Swiss Federal Constitution of 1874 (Art. 10) gives the Federal Council control of relations between the cantons and foreign governments, and (Art. 102) to take care of the interests of the Confederation abroad.

Under the Articles of Confederation (Art. 9) the United States was given the sole and exclusive right of sending and receiving ambassadors and the Constitution of 1789 (Art. II, sect. 2) reads as follows:

He (the President) shall have Power, by and with the Consent of the Senate, to make Treaties, provided two thirds of the Senators

⁶ See Simeon E. Baldwin's article, "The Mission of Governor Taft to the Vatican," *Yale Law Journal*, XII, 1, (November, 1902).

present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls. . . .

It has become a well established custom in the United States that the President shall have a fairly free hand in nominating diplomatic officers and need not consult the Senate in advance. In 1813 the Senate proposed to confer with President Madison before it confirmed his nomination of a minister to Sweden but he refused on the ground that such a procedure would violate the proper separation of executive and legislative powers.⁷

Senatorial Limitation of the Appointive Power—Once the nomination is made the Senate may clearly reject the appointment if it is so disposed. In 1831 President Jackson appointed Martin Van Buren as minister to London during the recess of the Senate. When the Senate reconvened it refused to confirm the appointment principally on the ground that while Secretary of State, Van Buren had given improper instructions to the United States minister in London. The Senate's rejection of his appointment did not prevent his subsequent election to the presidency.⁸

The Senate again opposed President Jackson in refusing to confirm the nomination of Andrew Stevenson, Speaker of the House of Representatives, as minister to Great Britain, succeeding Van Buren. The post was left under a chargé d'affaires for almost two years, and then Stevenson's name was again proposed. Again the Senate was obdurate and tabled the nomination of Stevenson.⁹ Jackson was just as stubborn as the Senate and in 1836 he finally obtained the necessary confirmation.

The interpretation made by Attorney General Cushing in 1855 in this connection is often quoted: "The power to appoint diplomatic agents . . . is a constitutional function of the President, not derived from, nor limitable by Congress, but requiring only the ultimate concurrence of the Senate; and so it was understood in the early practice of the Government."¹⁰

⁷ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 46.

⁸ John W. Foster, *A Century of American Diplomacy* (New York, 1900), 276.

⁹ *Sen. Exec. Journal*, IV, 516 (March 3, 1836).

¹⁰ 7 *Opinions U. S. Attorney General*, 193.

In fact the Senate rarely fails to confirm presidential nominations to the diplomatic service even though some of them may be purely and simply political. For instance, the Senate confirmed President Cleveland's appointment of Mr. Van Alen as minister to Italy where the principal reason for the nomination was a contribution of \$50,000 to the Democratic campaign fund. In this case the Civil Service Reform League raised such an uproar that Mr. Van Alen declined the appointment.¹¹

When Dr. Jacob Gould Schurman, President of Cornell University, was appointed minister to China in 1921 by President Harding, the nomination was opposed by a number of Republican Senators on the ground that he was pro-Japanese. A still larger number of Democratic Senators opposed the nomination of George Harvey as ambassador to Great Britain because of his vitriolic attack on former President Wilson.

When President Coolidge proposed Mr. Morrow's name as ambassador to Mexico the Senate was in recess but Senators Caraway, Nye, and Frazier were skeptical of Morrow's ability to be disinterested in his service, while Senator James A. Reed of Missouri denounced the appointment violently as a nefarious House of Morgan scheme. Fortunately for the United States the appointment was confirmed. The Senate usually confirms diplomatic appointments very promptly. In the case of Mr. Samuel S. Cox, appointed by President Cleveland to Turkey, the Senate confirmed it "without the usual reference to a committee—a compliment rarely extended any nominee who is not or has not been a Senator."¹²

Grades in the Diplomatic Service—The question as to the President's control of grades of diplomatic officers has never been definitely settled. Jefferson was clearly of the opinion that the Senate had no right to negative the grade in advising and consenting to appointments¹³ and Attorney General Cushing held that the Act of March 1, 1855, specifying that certain grades be

¹¹ See William Dudley Foulke, *Fighting the Spoilsmen* (New York and London, 1919), 99-103.

¹² W. V. Cox and H. M. Northrup, *Life of Samuel S. Cox* (New York, 1899), 128.

¹³ John Bassett Moore, *Digest of International Law* (Washington, 1906), IV, 450.

assigned to particular countries to be "recommendatory only and not mandatory".¹⁴ Nevertheless, although authorized by the Constitution, no ambassadors were appointed until the Act of March 3, 1893, gave specific authorization. Furthermore, the Act of March 2, 1909, provided that "hereafter no new ambassadorship shall be created unless the same shall be provided for by an act of Congress."¹⁵

Following out this policy the Congress specifically authorized the new grades of Ambassador to Spain in 1913, to Argentina and Chile in 1914 and to Belgium in 1919.¹⁶ On the other hand, President Wilson appointed an ambassador to Peru in 1919 without any authorization from the Congress other than that found in the appropriation bill for the Department of State.¹⁷ The appointment of an ambassador was approved by a joint resolution of the Senate¹⁸ but it apparently was not acted upon in the House. In similar fashion ministers to Canada and the Irish Free State were appointed in 1927 without other Congressional approval than that found in the appropriation bill for the fiscal year ending 1928. In this same bill there is a clear inference that if he desires, the President has the authority to reduce the rank of the representative to Turkey from ambassador to minister with a corresponding reduction in salary.¹⁹ But in raising the legation in Warsaw to an embassy in 1930 the Congress made a specific authorization by law.²⁰ In 1935 announcement was made by the Department of State of its intention to raise the American legation in Peiping to an embassy following a similar action by Russia and Italy and a proposed similar action by Great Britain and Japan, before any Congressional authorization was obtained.²¹

Appointment of Executive Agents—Despite discussion to the contrary, numerous precedents attest the fact that the President does possess the power to appoint special diplomatic agents without Senatorial confirmation. In a minority report of the Com-

¹⁴ 7 *Opinions U. S. Attorney General*, 214.

¹⁵ 35 *U. S. Statutes at Large*, 672.

¹⁶ 38 *U. S. Statutes at Large*, 110, 378; 41 *U. S. Statutes at Large*, 291.

¹⁷ 40 *U. S. Statutes at Large*, 1325.

¹⁸ *Congressional Record*, LVII, 4537.

¹⁹ 44 *U. S. Statutes at Large*, 1180.

²⁰ 46 *U. S. Statutes at Large*, 57.

²¹ *United States News*, May 20, 1935.

mittee of Foreign Relations of the Senate investigating this subject it was found that in the century between 1789 and 1888 the President had appointed 438 persons to conduct negotiations with foreign powers without the advice and consent of the Senate.²² The following well known examples might be cited: Admiral John Paul Jones commissioned to treat with Algiers in 1792; Edmund Roberts sent as special agent to conclude treaties with Cochin-China, Siam and Muscat in 1832; Nicholas P. Trist appointed commissioner to conclude peace with Mexico in 1848; Commodore Perry appointed to conclude a treaty with Japan in 1852; James S. Blount named as special commissioner to the Hawaiian Islands in 1893 with powers paramount to those of the regular minister to investigate and report on the revolution which overthrew the Queen's government; W. W. Rockhill sent as commissioner of the United States to China in 1900 to aid in the settlement of the Boxer Rebellion indemnities; John Lind appointed by President Wilson in 1913 as confidential agent to Mexico; Colonel House in a somewhat similar capacity to Europe in the World War period, and finally Norman Davis as a sort of ambassador at large for President Franklin Roosevelt to represent the United States in the Disarmament Conference.²³

Reciprocity of Grades—There is no rule of international law which requires full reciprocity between states in the ranking of their diplomatic representatives, yet for the most part such equality is customary. The state sending a diplomatic representative decides upon the rank and the receiving state may then determine whether it wishes to receive and send a representative of similar standing. We have already noted the refusal of the government of Portugal to receive a *chargé d'affaires* from the United States in 1790 so that President Washington raised the rank of his envoy to minister resident. On the other hand, it has not been unknown for states to send envoys of dissimilar rank. Switzerland, for example, has for a long period of time accredited a minister plenipo-

²² Senate Document # 231, 56th Congress, 2nd Sess., VIII, 332.

²³ For further examples see Moore, *op. cit.*, IV, 452-457; see also J. M. Mathews, *Conduct of American Foreign Relations* (New York, 1922), 66-76; Q. Wright, *Control of American Foreign Relations* (New York, 1922), 328-334; E. S. Corwin, *The President's Control of Foreign Relations* (Princeton, 1917), 49-70.

tentiary and envoy extraordinary to France, whereas France has regularly sent an ambassador to Switzerland.

Secretary of State Marcy in a communication to the chairman of the House Committee on Foreign Affairs in 1856 indicated that a certain degree of flexibility was permitted: "As a general rule no government sends to or at least continues in, another country a minister of a higher grade than that country may reciprocate. This rule, however, is by no means invariable, and for various reasons it seems to be proper to leave it to the President to determine the cases in which exception should be made."²⁴ John W. Foster, writing in 1906, declared that "the United States has never construed this practice strictly and it sends ministers to not less than eight states which do not maintain regular diplomatic representatives in this country."²⁵ Lord Phillimore in his draft code of 1926 declares: "it is usual for states to be represented between themselves by ministers of equal rank. A state which sends an ambassador to another state expects to receive an ambassador from that state and so with other ranks. But this is a matter of comity and not of law."²⁶

The Appointment of American Ambassadors—The principal European powers have regularly exchanged ambassadors ever since the classification of the Congress of Vienna. The United States which limited its rank of envoys to that of minister plenipotentiary until 1893 was oftentimes as a result placed in a humiliating position. In some capitals an ambassador always took precedence over a minister even though the minister might have been waiting in the antechamber for some time previously. This very situation occurred in Berlin when the American minister, Mr. Bancroft, after a long wait for an audience with the Chancellor had to yield to the British ambassador who had just arrived. Mr. Bancroft protested so vigorously that afterwards the rule was "first come first served."²⁷

The Act of March 1, 1893, provided that the President, when advised of the rank of the foreign representative, might in his

²⁴ Moore, *op. cit.*, IV, 458.

²⁵ J. W. Foster, *The Practice of Diplomacy* (New York, 1906), 36.

²⁶ Lord Phillimore, "Proposed Codification of the Law Regarding the Representation of States," *International Law Association, Report of the Thirty-fourth Conference, Session of Vienna, 1926*, 399.

²⁷ Eugene Schuyler, *American Diplomacy* (New York, 1895), 113.

discretion direct that the representative of the United States to that government bear the same designation. So that when Great Britain, France, Italy and Germany forthwith conferred the rank of ambassador upon their representatives in Washington, President Cleveland responded by giving the American envoys in those countries the same title ²⁸

When a few years later Mexico accredited an ambassador to Washington the diplomatic corps practically boycotted him on the ground that Mexico was not a sufficiently important state to exercise the privilege of sending ambassadors. The underlying reason for their action was because the envoy chosen had served on the court-martial which had condemned the Archduke Maximilian to death. ²⁹

A clever utilization of the law of 1893 was made by Herbert W. Bowen in order to promote himself. Accredited to Persia as minister resident and consul-general in 1899 he began a campaign among his Persian friends to have a minister plenipotentiary sent from Persia to the United States. The plan succeeded and in 1901 a Persian minister plenipotentiary was accredited to the United States and Mr. Bowen was forthwith given a similar grade. ³⁰

Diplomatic Appointments Subject to Agrément—An outstanding authority in international law in a recent volume has declared that a state possesses complete freedom in its choice of diplomatic envoys: "It may send career diplomats, scholars, soldiers or women, for neither age, religion or sex may be grounds for exclusion." ³¹ Nevertheless, the receiving state has the unquestioned right to refuse to receive any diplomatic representative who because of his words or actions or character might thereby be incapable of performing in the most efficient manner his official functions.

In order to avoid the unfriendly feeling which might arise

²⁸ See President Cleveland's annual message, Dec. 4, 1893, in *Foreign Relations of the United States*, XII, 1893.

²⁹ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 27.

³⁰ Herbert W. Bowen, *Recollections Diplomatic and Undiplomatic* (New York, 1926), 241.

³¹ Paul Fauchille, *Traité de droit international public* (Paris, 1926), I, Pt. iii, 36. It should be noted, however, that states generally limit themselves to the choice of their own nationals.

through the refusal of a state to receive a foreign representative it is customary for the sending state to submit in advance the name of its envoy to the government of the state to whom he is to be accredited. The procedure of determining in advance as to whether the envoy will be *persona grata* is called *agrément* and the approval *agrément*.

As long as the United States appointed no envoy with a higher rank than minister it was not regarded necessary to communicate in advance the names of our foreign representatives. Secretary of State Bayard in referring to the practice declared in 1885 that "no case could be found in the records of the Department of State in which the acceptability of an envoy was inquired or ascertained in advance of his appointment to the mission for which he was chosen, and that there were reasons, growing out of the frequent recurrence of elections and changes of administration in the United States why the practice should not be adopted."³²

The United States was consistent in this stand in that it neither expected nor asked other governments to consult it before naming their diplomatic representatives. Secretary of State Fish writing in 1870 declared that the United States did not require other governments to ask in advance whether contemplated appointments would or would not be acceptable but when the inquiry was put the State Department was competent to answer frankly. A few years later when the President of Switzerland expressed some apprehension lest the appointment of a certain person might not be entirely acceptable, the Department agreed with this point of view.³³

Since the appointment of envoys with the rank of ambassador, the United States has followed the regular custom of ascertaining the disposition of the foreign government in advance. For example, when the American ambassador to Russia, Mr. George T. Marye, was informed by Secretary of State Lansing that Mr. David R. Francis was to be his successor, Ambassador Marye was asked to obtain the Russian *agrément* as to Mr. Francis' appointment.³⁴ The United States decided to follow the same cus-

³² Moore, *op cit.*, IV, 482.

³³ *Ibid*, IV, 475.

³⁴ George T. Marye, *Nearing the End in Imperial Russia* (New York, 1929), 463.

tom in the appointment of ministers so that when Mr. John Brinckerhoff Jackson was appointed Minister to Cuba in 1909 Norval Richardson, at that time chargé d'affaires, was instructed to obtain the Cuban *agrément*. The procedure employed in this case was to state that the President would like to send Mr. Jackson as minister plenipotentiary if such an appointment would be agreeable. A short outline of Mr. Jackson's career was enclosed with the note. The Cuban government replied that it was most flattered by the appointment of such a distinguished American.

In his letter to Ambassador Myron T. Herrick accepting his resignation Secretary of State Bryan informed Mr. Herrick that Mr. William Graves Sharp of Ohio was to be his successor. Ambassador Herrick was asked to secure the *agrément* of the French government. For his information it was stated that Mr. Sharp was serving his third term in Congress and was ranking member of the Committee on Foreign Affairs.³⁵

The various draft codes prepared either by publicists or by international conferences almost unanimously provide for the *agrément*. Bluntschli in his draft code of 1868 declares: "Les convenances exigent qu'avant de nommer un envoyé auprès d'un état étranger, on notifié à ce dernier le nom de la personne qu'on a l'intention d'appeler à ce poste."³⁶ Pessoa is even more definite: "No state may accredit its ministers to other states without previous notice to and acquiescence by them."³⁷ The Convention on Diplomatic Officers adopted by the Pan-American Conference at Havana in 1928, Article VIII, provides: "No state may accredit its diplomatic officers to other states without previous agreement with the latter."³⁸

Refusal of the Agrément—The annals of diplomacy are replete with examples of refusal of the *agrément*. The King of Sardinia in 1792 refused to receive M. de Semonville as ambassador from France because of his Jacobin proclivities, and in 1820

³⁵ Colonel T. Bentley Mott, *Myron T. Herrick, Friend of France* (New York, 1929), 211.

³⁶ Johann Kaspar Bluntschli, *Le droit international codifié*, Lardy trans. (Paris, 1870), Art. 167.

³⁷ Epistacio Pessoa, *Projecto deCodigo de Directo Internacional Publico* (Rio de Janeiro, 1911), Art. 110.

³⁸ *Sixth International Conference of American States. Final Act* (Habana, 1928), 142.

Sardinia refused to receive the Baron Charles de Martens from Prussia on the ground that his wife was the daughter of a French regicide.³⁹ A very interesting example occurred in 1832 when the Czar of Russia refused to receive Sir Stratford Canning as Ambassador from Great Britain. The excuse given was that the nomination was made suddenly and without previous notice. The real reason seemed to be the personal objections of the Czar to whom it was alleged that Canning had been rude when the former was still Grand Duke. It was also suggested that Canning was altogether too familiar with the political relations which had existed for some time between Russia and Turkey to be a desirable emissary. Lord Palmerston endeavored to make an issue of the case but the Czar was adamant in his refusal. As a result, a chargé d'affaires was in charge of the embassy until 1835.⁴⁰

Numerous similar incidents may be cited in American diplomacy. Charles C. Pinckney was refused as minister to France in 1796 by the French Directory because they were displeased by the recall of James Monroe but as a matter of fact the relations between the two governments were already exceedingly critical and no American would have been certain of being received. One of America's most famous diplomats to the Far East, Anson Burlingame, was originally sent to Austria but owing to evident opposition to his appointment he was transferred to China before reaching his post. In his case Prince Metternich probably was cognizant of his friendliness towards the Italians and Hungarians.

Perhaps the best known case in American diplomacy is that of Mr. A. M. Keiley who was appointed minister to Italy in 1885. The Italian government declared that he was not *persona grata* to the King because he had made a public speech in 1871 in support of resolutions protesting among other things "against the invasion and spoliation of the status of the church by King Victor Emmanuel as a crime against solemn treaties and against the independence of the church on earth. . . ."

Such a stand was justifiable under the circumstances and the United States appointed John B. Stallo of Ohio in Mr. Keiley's place. At the same time Mr. Keiley was appointed minister plenipo-

³⁹ P. Pradier-Fodéré, *Cours de droit diplomatique* (Paris, 1899), I, 394.

⁴⁰ E. Satow, *A Guide to Diplomatic Practice*, 2nd ed. (London, 1922), I, 204-207.

tentiary at Vienna. The Austrian government was no more desirous of receiving Mr Keiley than was Italy and after calling the attention of the American government to the customary diplomatic practice of the *agrément* declared that the "position of a foreign envoy wedded to a Jewess by civil marriage would be untenable and even impossible in Vienna".

The United States regarded this ground for objection wholly untenable, in fact it violated the Constitution of the United States which guaranteed religious liberty. Secretary of State Bayard while recognizing Austria's right of rejection asked for a reconsideration of the case. The Austrian government, disclaiming a discussion on religious liberty and diplomatic law extended its grounds of objection somewhat: "Our objections to Mr. Keiley's appointment as minister of the United States to the Imperial Court are founded upon want of political tact evinced on his part on a former occasion, in consequence of which a friendly power declined to receive him; and upon the certainty that his domestic relations preclude that reception of him by Vienna society which we judge desirable for the representative of the United States, with which power we wish to continue the friendly relations existing between the two Governments."

The United States was not satisfied with these additional reasons and since Austria persisted in her attitude Mr. Keiley again resigned and was appointed a judge on the International Tribunal of Egypt where he made an excellent record. President Cleveland in his annual message of December 8, 1885, explained the situation and declared that since the United States could not acquiesce in the reasons advanced he would make no further appointment but would leave the interests of the United States in charge of a *chargé d'affaires ad interim*.⁴¹

In 1891 former Senator Henry W. Blair was named minister to China. While en route to his post newspapers gave citations from Senate debates in which Mr. Blair compared the coming of Chinese coolies to the United States to the introduction of the yellow fever and referred to the Chinese of San Francisco as "seeds of death" and their quarter there as a "seething, roaring,

⁴¹ *Foreign Relations of the United States, 1885*, iv. The Keiley incident is covered in J. B. Moore, *Digest of International Law*, IV, 480-483, the correspondence in *Senate Executive Document 4, 49th Congress, 1st Session*.

bloodcurdling curse". The Chinese government thereupon declared Mr. Blair to be *persona non grata* and Mr. Blair was forced to resign his commission. The Chinese later offered to reconsider if the President would try to repeal the Exclusion Law of 1888 but the United States found this position "incongruous and inadmissible".⁴²

Among the more recent examples of refusal of the *agrément* might be mentioned the refusal of Mexico to receive James W. Gerard, appointed by President Wilson in 1913, who was regarded as *persona non grata* because of the reputed ill treatment accorded the peons on his mining properties in Mexico.⁴³ There was also some doubt as to the acceptance of Josephus Daniels as ambassador to Mexico in 1933 inasmuch as he had been Secretary of the Navy when Vera Cruz had been shelled and taken over by the United States Navy in 1914. Nevertheless, the fact that President Franklin D. Roosevelt, who named Daniels as ambassador, was Assistant Secretary of the Navy at the time of the Vera Cruz incident made it a little awkward for the Mexican government to protest on that issue had it been so disposed. The President of the American Chamber of Commerce of Mexico City was said to have informed the Department of State that American business men generally were against the appointment. Also the Mexican Communists staged a demonstration before the American Embassy, going so far as to break several windows as a protest.⁴⁴ The Mexican government, however, found no objection, and Mr. Daniels has proved most acceptable in his administration of this office.

Although the United States has on various occasions asked for the recall of foreign envoys and at times has even dismissed them summarily,⁴⁵ there are very few occasions when the United States has refused the *agrément*. One of the rare cases occurred in 1922 when the United States refused to receive Dr. Hermès as ambassador from Germany inasmuch as he was at that time under indictment for fraud committed while head of the ministry of *ravitaillement*.⁴⁶

⁴² See *Senate Executive Document 98, 52nd Congress, 1st Session*. Also see J. W. Foster, *The Practice of Diplomacy* (New York, 1906), 44.

⁴³ Joseph Sharp, *Let There Be Light* (Leipzig, 1917), 3.

⁴⁴ *New York Times*, March 29, 1933.

⁴⁵ See *infra*, p. 330 ff.

⁴⁶ Paul Fauchille, *op cit.*, I, Part iii, 38.

An interesting incident emphasizing the advantage of the *agrément* occurred in connection with the unfortunate Maximilian expedition to Mexico. As a means of securing recognition of his government in 1865 Maximilian sent a diplomatic envoy to the United States who attempted to present his letter of credence to Secretary Seward through the French minister at Washington. Secretary Seward returned the letter to the Marquis de Montholon, stating that the President could not receive either the letter or agent since the United States was on friendly terms with the existing republican government of Mexico. The French government expressed its embarrassment at this action and declared that Maximilian should have secured the *agrément* of the United States before sending a representative.⁴⁷

The Rôle of Women in Diplomacy—Just as it is generally conceded that neither religion, age, nor social standing are insurmountable barriers to a diplomatic appointment, neither is sex a valid objection to the acceptance of a foreign envoy. Nevertheless, although women have played an important rôle in diplomacy and from time to time have been sent on important special missions very few have been appointed to foreign posts as regularly accredited envoys. With regard to the special mission of the Maréchal de Guébriant who was sent in the seventeenth century as ambassadress to accompany the Princess Marie Louise de Gonzague to her fiancé, the King of Poland, Wicquefort observed: "One cannot deny but that it hardly accorded with the dignity of a King to be represented by a woman."⁴⁸

The remarkable career of the Chevalier or Chevalière d'Eon de Beaumont can hardly be cited as an example because although this individual was supposed to have served on a diplomatic mission for Louis XV at the Court of Elizabeth of Russia as a woman he or she later served as a captain of dragoons and minister plenipotentiary of France at the British Court as a man. When heavy bets were laid as to the sex of this remarkable person and an action was taken before the King's Bench, the judge and jury declared the chevalier to be a woman; yet to her dying day

⁴⁷ *Diplomatic Correspondence of the United States, 1865*, Part III.

⁴⁸ A de Wicquefort, *L'ambassadeur et ses fonctions* (London, 1840), Pt. II, 96.

D'Eon declared herself to be a man and fought many a duel to prove it.⁴⁹

In the post war era when women have found it possible to enter almost every trade and profession, diplomacy has been no exception. One of the outstanding women diplomats was Madame Alexandra Kollontay, daughter of a Czarist general, appointed by Soviet Russia first as minister to Norway and later as ambassador to Mexico. In her three years' service at Norway she was extremely successful. While in Berlin en route to Mexico in the fall of 1926 Madame Kollontay applied to the American consul general in Berlin for a visa on her passport to pass through the United States but by order of Secretary of State Kellogg she was refused on the ground that she was an outstanding member of the Russian Communist Party. This "little person with light brown graying hair, cut like a page's, troubled gray eyes . . . and a persuasive voice in which she speaks half a dozen languages admirably", according to Dorothy Parker, was not to be permitted to expose the United States to the political germs which she undoubtedly carried on her person.

In the United States although women have for many years been eligible to political positions there seemed to be little desire on their part to enter the diplomatic service until after the World War. One noteworthy exception was the case of Marilla Ricker, a lawyer of New Hampshire who publicly declared her desire to be appointed minister to Colombia during the second administration of President Cleveland. She is reported to have stated to a reporter, "If Luther McKinney [minister to Colombia at that time] can fill the place, I can overflow in it." She was not given the appointment.⁵⁰

The first American woman to serve as a minister plenipotentiary was Mrs. Ruth Bryan Owen, daughter of the Great Commoner, appointed by President Franklin Roosevelt as minister to Denmark. Mrs. Owen had already served in Congress and her appointment was entirely political. She is gifted with her father's silver tongue and has been very popular among the Danes. Inas-

⁴⁹ See Captain J. Buchan Telfer, *The Strange Career of the Chevalier D'Eon De Beaumont* (London, 1885).

⁵⁰ Frederick Van Dyne, *Our Foreign Service* (Rochester, 1909), 75.

much as the Department of State always sees to it that an experienced career diplomatic officer serves as counselor or first secretary in all embassies and legations, the policy of appointing a certain number of inexperienced politicians as ministers and ambassadors is not as potentially dangerous as it might seem.

In the lower ranks of the career service a number of states have from time to time appointed representatives of the fair sex. In 1912 Uruguay appointed a woman at its legation in Brussels, and in 1914 Norway sent a woman secretary of legation to Mexico. In 1922 the Bulgarian government sent Mlle. Nadia Stanciof as first secretary of the legation in Washington.⁵¹

The United States appointed the first woman foreign service officer in 1922 when Miss Lucile Atcherson was appointed as third secretary in Berne and later sent to Panama City. She resigned in 1927 to be married. Miss Pattie Field was the second, but she was sent first to the consular service and resigned before being transferred to the diplomatic service. Miss Frances Willis, appointed in 1927, has had up to the present time the longest service of any American woman in the foreign service. Appointed first as vice consul to Valparaiso, Chile, she was transferred to the legation at Santiago in 1931. Her next appointment was as third secretary of legation in Stockholm where for a time during the absence of the minister she served as chargé d'affaires *ad interim*. She is now serving successfully as third secretary in the American embassy at Brussels. Miss Margaret Warner and Miss Nellie B. Stogsdall, appointed foreign officers in 1929, have both left the service. The last woman to be appointed, Miss Constance Harvey, sent in 1930 as vice consul to Ottawa and to Milan in 1931, is still serving in the consular service. Although women are eligible for appointment in the American foreign service, there is a feeling that they will always have difficulty in fitting themselves into tasks in foreign countries which are customarily performed by men the world over, and it seems extremely unlikely that any considerable number will be permitted to enter the career.

Dual or Multiple Commissions—It is quite customary for a diplomatic official to be accredited to several states at the same

⁵¹ Paul Fauchille, *op. cit.*, I, Part iii, 36.

time. For example, a number of states, Austria, Belgium and Japan among others accredit the same minister to Athens and to Tirana, Albania. Argentina and Cuba send the same minister to Germany and Austria. Afghanistan, Finland, Greece, Lithuania, and Siam accredit a single envoy to France and Belgium. Austria and Hungary accredit the same envoy extraordinary and minister plenipotentiary to Washington and Mexico City.⁵² The United States used to accredit a single envoy to the five republics of Central America and one representative to Greece, Rumania and Serbia. At the present time the American ambassador to Belgium is simultaneously accredited as minister plenipotentiary to Luxemburg. A single American minister is accredited to Esthonia, Latvia, and Lithuania.

Plural Diplomatic Representation—It is much less common for a state to accredit more than one person to a single post on a regular mission. A few rare instances may be cited, however, of more than one diplomatic representative having been accredited to a single post. The *Mémoire diplomatique* of 1881 announced the *agrégation* at Washington of a diplomatic mission of three ministers resident from Colombia.⁵³ During the World War period the British, appreciating the fact that Ambassador Spring-Rice was not particularly *persona grata* to the State Department nor temperamentally fitted to take charge of all the financial and commercial problems which were bound to arise, sent Lord Northcliffe to be responsible for commercial matters and Lord Reading to be in control of financial questions.⁵⁴ In somewhat similar fashion, although for exactly opposite reasons, Ambassador Page, who in the eyes of many Americans had become altogether too popular with the British foreign office, was supplemented at London by the more neutral Colonel House.

The United States in 1849 appointed A. Dudley Mann as special agent to Hungary, although we had at that time a minister to Vienna.⁵⁵ In the crucial period preceding the War of the Pacific

⁵² These examples are all taken from the 1935 edition of the *Almanach de Gotha*.

⁵³ Raoul Genet, *Traité de diplomatie et de droit diplomatique* (Paris, 1931), I, 192.

⁵⁴ Charles Seymour, *The Intimate Papers of Colonel House* (New York, 1926), II, 399; III, 120.

⁵⁵ Moore, *op. cit.*, IV, 453.

in South America William H. Trescot was commissioned as special envoy with the rank of minister plenipotentiary to Chile, Peru and Bolivia at the same time that the United States had regularly accredited diplomatic representatives in each of these countries.⁵⁶ During the very critical Venezuela dispute of 1895-96 Secretary of State Olney enlisted the services of Henry White to return to London in a semi-official capacity and assist Ambassador Bayard who was not succeeding as well as the State Department wished. It was hoped that White who had many influential friends in British governmental circles might clarify our position and thereby avert the possibility of a serious conflict.⁵⁷ Mr. William W. Rockhill was named commissioner to China with diplomatic privileges and immunities at the time of the Boxer outbreak, although the United States minister was at the same time in Peking.⁵⁸

Although the United States had no intention of sending more than one ambassador at a time to France in the early period of the World War, because of the difficulties inherent in the situation Ambassador Herrick remained in charge of the Paris embassy for exactly three months after Ambassador Sharp had arrived. Inasmuch as former Ambassador Bacon was also in Paris at this time the French press congratulated the United States for having three such eminent representatives in Paris at one time.⁵⁹ Henry Lane Wilson tells that when he arrived as minister to Belgium in 1905 Mr. Townsend informed him that he had not expected to surrender the post until a fortnight later, and intimated that the presence of the new envoy in Brussels might be embarrassing. Although authorized to take charge upon arrival, Mr. Wilson decided to visit Paris for two weeks before assuming his official duties.⁶⁰

On ceremonial occasions a special mission is sometimes sent and it is quite customary to send a number of delegates possessing diplomatic powers and immunities to important international conferences. At the Peace Conference at Paris the United States was

⁵⁶ Moore, *op. cit.*, IV, 454.

⁵⁷ Allan Nevins, *Henry White* (New York, 1930), 112.

⁵⁸ Moore, *op. cit.*, IV, 456.

⁵⁹ Mott, *op. cit.*, 216, 218. See also Beckles Willson, *American Ambassadors to France* (London, 1928), 401.

⁶⁰ Henry Lane Wilson, *Diplomatic Episodes in Mexico, Belgium and Chile* (New York, 1927), 115.

represented by President Wilson, Secretary of State Lansing, former Ambassador White, and General Bliss, not to mention the unofficial coordinating ambassador-at-large, Colonel House. At the London Naval Disarmament Conference of 1930 the American delegation included Secretary of State Stimson, Secretary of the Navy Adams, Ambassadors Dawes, Gibson and Morrow, envoys to Great Britain, Belgium and Mexico, and Senators Reed and Robinson, as well as the admirals and technical delegates.

Perhaps the rather indefinite language of the provision found in the Havana Convention of 1928 on diplomatic officers may be said to express the law of today on the subject: "Every state may entrust its representation before one or more governments to a single diplomatic officer. Several states may entrust their representation before another to a single diplomatic officer."⁶¹

⁶¹ *Sixth International Conference of American States: Final Act, Art. V* (Habana, 1928).

CHAPTER X

RECEPTION OF DIPLOMATIC OFFICERS

The Letter of Credence—When the diplomatic envoy starts for his post he carries as evidence of his representative character an official document from the head of his state known as a letter of credence, more commonly known by its French name, "lettre de créance". According to Wheaton "every diplomatic agent in order to be received in that character and to enjoy the privileges and honors attached to his rank must be furnished with a letter of credence."¹ On one occasion when Mexico sent a chargé d'affaires to the United States without such identification Webster informed him that no communication could be carried on between Mexico and the United States except through the American minister to Mexico or until he presented his credentials.²

The letter of credence is addressed to the head of the state to which the diplomatic representative is accredited, and gives his name, his rank, and indicates the general object of his mission. Formerly the language used in the letters of credence was exceedingly verbose and ornate but at the present time the superlatives have given way to a comparatively simple form of address.

The first letter of credence issued in the United States was the one authorizing Benjamin Franklin to represent the new republic at the Court of Louis XVI of France in 1778. After greeting the King of France as Great, Faithful and Beloved Friend and Ally, and expressing appreciation for the assistance given in support of the "Liberties and Independence of these States", the letter follows almost the same form as that used at the present day.³

One of the most interesting letters of this sort was the one commissioning Caleb Cushing as Envoy Extraordinary and Min-

¹ Lawren's *Wheaton, Elements of International Law* (London, 1864), 388.

² Daniel Webster, *Works* (Boston, 1890), VI, 445.

³ Text given in John W. Foster, *The Practice of Diplomacy* (Boston and New York, 1906), 51; for example of present form of letter of credence see Appendix.

ister Plenipotentiary to the Emperor of China. It is generally thought that it was prepared by Secretary of State Webster. It merits quotation at least in part because of its charm and originality:

I, John Tyler, President of the United States of America, send you this letter of peace and friendship signed by my own hand.

I hope your health is good. China is a great Empire extending over a great part of the world. The Chinese are numerous. You have millions and millions of subjects. The twenty-six United States are as large as China, though our people are not so numerous. The rising sun looks upon the great mountains and great rivers of China. When he sets, he looks upon rivers and mountains equally large in the United States. Our territories extend from one great ocean to the other; and on the west we are divided from your dominions only by the sea. . . .

Now my words are that the Governments of two such countries should be at peace. It is proper, and according to the will of Heaven, that they should respect each other, and act wisely. I therefore send to you Count Caleb Cushing, one of the wise and learned men of this country. . . .

The Chinese love to trade with our people, and to sell them tea and silk, for which our people pay silver, and sometimes other articles. But if the Chinese and Americans will trade, there should be rules, so that they shall not break your laws nor our laws. Our minister, Caleb Cushing, is authorized to make a treaty to regulate trade. Let it be just. Let there be no unfair advantage on either side. . . . Therefore we doubt not that you will be pleased that our minister of peace, with this letter in his hand, shall come to Peking, and there deliver a treaty with him to regulate affairs of trade,—so that nothing may happen to disturb the peace between China and America.⁴

Duties Preliminary to the Reception—The regular procedure for the newly appointed American diplomatic envoy whose nomination has been confirmed by the Senate is to proceed to Washington to file the prescribed oath of office in the Department of State and to obtain his commission. The commission is a formal document issued under the seal of the United States and signed personally by the President and countersigned by the Secretary of State. It declares that the President inasmuch as he has “spe-

⁴ Claude M. Fuess, *Life of Caleb Cushing*, 2 vols. (New York, 1923), I, 419.

cial trust and confidence in the integrity, prudence and ability" of the nominee has appointed him ambassador or minister to — country and authorizes him to perform the duties of his office and to hold it during the pleasure of the President of the United States. The envoy then confers personally with the Secretary of State and the head of the geographical division which is responsible for diplomatic relations with the country to which he is accredited. He inspects the correspondence on file in the Department and familiarizes himself with the treaties in force between the United States and the country to which he has been assigned. He also pays his respects to the President and to the envoy of the country to which he is accredited. Frequently, also, the new diplomat, especially if he has been recruited from outside the career service, consults with the former representative and obtains from him suggestions as to procedure not to be derived from the official files.

According to the Official Instructions, the diplomatic representative is furnished with the following papers: ⁵

1. A sealed letter of credence signed by the President and addressed to the head of the state to which he is sent;
2. An open office copy of the letter of credence;
3. Diplomatic passports for himself, his family, and suite;
4. Copies of the *Register of the Department of State and Instructions to Diplomatic Officers of the United States*.

The envoy will also receive such general and special instructions as the Secretary of State may deem necessary for his guidance. He is particularly cautioned against public expression of his views on political subjects on the eve of his departure or while traveling through a third country. It is considered advisable for the new envoy to give informal notice to his predecessor, if he be at his post, or if not, to the chargé d'affaires, of his expected arrival in order that the usual exemptions of customs may be extended. This preliminary notice may be given through the Department, which of course, must be kept fully posted as to his plans.

⁵ *Instructions to Diplomatic Officers of the United States, March 8, 1927* (Washington, 1927), II, 3.

Inasmuch as the newly appointed envoy will find upon arrival a mission already established he should request through the representative in charge a conference with the minister of foreign affairs in order to arrange for his official reception. At the same time he personally addresses a formal note to the minister of foreign affairs mentioning his appointment, his rank and requesting the designation of a time and place for presenting his letter of credence.

If the representative is of a rank higher than that of chargé d'affaires, his sealed letter of credence is signed by the President and addressed to the head of the state. As such he must request an audience to present it in person. The open letter of credence is sent to the minister of foreign affairs after a copy has been made for the archives of the mission. If the envoy is a chargé d'affaires his letter of credence is addressed to the minister of foreign affairs and should be delivered to him in person subsequent to the sending of the office copy.

It is generally customary for the new diplomatic representative to make a brief address upon the occasion of delivering his letter of credence to the head of the state. This is prepared in advance in English and a copy sent to the minister of foreign affairs so that a suitable reply may be prepared. Copies of both the address and the reply must be sent to the Department of State.

Delay in Presentation of the Letter of Credence—The diplomatic representative must use his best judgment if conditions make it impossible for him to present his letter of credence shortly after his arrival. When Andrew Gregg Curtin, appointed minister to Russia in 1869, arrived at Hamburg on his way to his post he learned that Prince Gortchakoff, the Russian Chancellor, was staying at Wiesbaden, a short distance away. Mr. Curtin visited him and learned that neither the Emperor nor Chancellor would be in St. Petersburg until the end of October. As it was then July and it was impossible to assume his duties until autumn, Mr. Curtin received the permission of the Department to spend the summer in Germany. Inasmuch as Mr. Clay was still at his post, the matter was easily arranged. It is interesting to note that Governor Curtin there found his colleagues John Jay, the new min-

ister to Austria, Mr. Elihu B. Washburne, the new minister to France, and Mr. Russell Jones, who was to go as minister to Belgium.

A much more lengthy delay occurred in the case of Charles Denby, sent as American minister to China in 1885. Although he entered upon the duties of his post immediately, he was not able to present his letter of credence since the Emperor was still in his minority. It was not until 1891 when the Emperor took over the government that Mr. Denby delivered his letter of credence issued six years before.⁶

The Presentation of the Letter of Credence—The actual ceremony of presentation is almost as varied as the posts. A very clear picture of the ordinary ceremony is given by Eugene Schuyler who served as minister resident and consul general to Greece, Rumania, and Serbia and later as consul general to Egypt:

On arriving at his post the minister's first duty is to inform the Minister for Foreign Affairs of his arrival, and of his character, and to request an interview for the purpose of asking an audience for the purpose of presenting his credentials to the head of the state. He is usually received at once by the minister, and by the sovereign as soon as an interview can be arranged, though in case of absence or illness there may be a delay of weeks, if not of months. Etiquette, however, demands that the audience for presenting credentials should take place as early as possible. These audiences are either public or private. In the first the minister is accompanied by the Minister of Foreign Affairs, generally followed by his own secretaries, and goes to the palace in more or less state, according to the customs of the place; for these vary greatly in different capitals. For an ambassador a state carriage is always sent. This is not always the case with the minister in a capital where ambassadors also reside, it being considered desirable to draw distinctions of ceremony between the two. In small countries, where there are no ambassadors, a state carriage is usually sent for the minister, in some cases by an escort. At a formal audience all parties are standing: the minister enters, is introduced to the sovereign by the Minister of Foreign Affairs, addresses a few words to him stating his character, and presents his letters of credence. These the sovereign takes, sometimes goes through the formality of reading them, and replies briefly to the minister. After the formal part of the

⁶ *Foreign Relations of the United States, 1891*, 376.

audience is over, there is generally a friendly conversation of a few moments, and the ceremony ends in much the same way as it began. In some countries it is expected that a formal speech will be made by the minister to the sovereign, and a formal reply made. In such cases the speech is written out in advance and given to the Minister of Foreign Affairs, who returns a copy of the reply before the audience takes place. This is in order to prevent embarrassment, as well as to see that nothing unpleasant be said. In some countries, as in Russia, a minister is nearly always received in private audience. He goes to the palace alone, is met by the Grand Master of Ceremonies, conducted to the Emperor, introduced into his room, and is left alone with him. After a word or two the Emperor requests the minister to be seated; and the conversation is informal.⁷

Mr. Andrew Curtin when minister to Russia asked permission to violate the traditional custom in Russia and deliver a brief address at his presentation to the Emperor. Prince Gortchakoff agreed, provided Mr. Curtin would furnish an advance copy of his remarks to be given to the Emperor. The address followed the usual type of such speeches emphasizing the traditional friendship and many similarities of the two countries. The Emperor listened with close attention and his reply which was given in excellent English dealt with the topics touched upon by the minister in exactly the same order. The next day Curtin asked Gortchakoff's permission to publish the remarks. Gortchakoff agreed but said they had no copy of the Emperor's reply. Curtin thereupon offered to reproduce the Emperor's speech from memory, which he did. They were sent to the Foreign Office, translated into French, published in the *Journal of St. Petersburg* and republished in all the important newspapers of Europe. Titian J. Coffey, Minister Curtin's secretary of legation, regards the incident as quite unique in American diplomacy.⁸

At a somewhat earlier period John Quincy Adams found his audience with the Emperor of Russia quite brief and conventional. The master of ceremonies came to see him the night before to explain the details of the presentation. The next afternoon

⁷ Eugene Schuyler, *American Diplomacy* (New York, 1895), 136-138, also found in John Bassett Moore, *Digest of International Law* (Washington, Govt. Printing Office), 1906, IV, 469-70.

⁸ Titian J. Coffey, "Curtin as Minister to Russia," in William H. Egle, ed., *Andrew Gregg Curtin* (Philadelphia, 1895), 433-434.

Mr. Adams went to the Imperial Palace, was conducted to the Emperor's cabinet, which he entered. The Emperor was alone, advanced to meet him and greeted him with the simple statement: "Monsieur, je suis charmé d'avoir le plaisir de vous voir ici."⁹

Washington Irving tells an interesting anecdote concerning the presentation of his friend, John Randolph to the Emperor of Russia. It had been reported that Randolph knelt as a mark of respect as he came into the Emperor's presence. Randolph's explanation was that as one of his legs was shorter than the other, he approached with a limping gait. Apparently the Emperor thought Randolph was about to kneel as he saluted, for the Emperor made a movement to prevent it, and cried "No, no!"¹⁰

The presentation as prescribed by the government of the Union of Soviet Socialist Republics takes place at the Kremlin and is less ceremonious. The ambassador is conducted by the *Chef du Protocole*, is given military honors by the Red Guards on entering the Kremlin and presents his letter of credence to the President in the presence of the Central Executive Committee, the Commissar for Foreign Affairs, and the College of the People's Commissariat for Foreign Affairs. A private audience is accorded the envoy afterwards by the President in the presence of the People's Commissar for Foreign Affairs.¹¹

Elaborate Receptions in Near East and Far East—In the Near East the procedure of presentation is much more elaborate. Colonel Thomas Skelton Harrison, American diplomatic agent to Egypt in 1897, has given us an excellent and very detailed description of his audience with the Khedive to present his letters of credence. He dressed in his naval uniform with epaulettes and sword and awaited the Khedive's Grand Master of Ceremonies. The Master of Ceremonies arrived at the agency in a gilded coach with a coachman and groom on the box and two postillions behind. A troop of cavalry preceded and followed the coach, and the streets through which they passed were guarded by foot and mounted police. When they entered the square before the palace

⁹ John Quincy Adams, *Memoirs* (Philadelphia, 1875), II, 50

¹⁰ David J. Hill, *American Authors, Washington Irving* (Boston, 1897), 120.

¹¹ See Sir Ernest Satow, *A Guide to Diplomatic Practice*, 3rd ed. (London, 1932), 143.

a band played "Hail, Columbia" and this was followed by a salvo of twenty-one guns. The route through the palace halls was lined with uniformed and gold laced officials. The Khedive, surrounded by his ministers, met Harrison in the reception room, grasped his hand and then listened to his address. The Khedive read his reply, took his seat on the throne and invited Harrison to sit at his right on a sofa. Servants brought pipes and coffee and all those present partook. The Khedive then accompanied the American envoy to the door, shook hands and waited while Harrison and his secretary backed out of his presence.¹²

Eugene Schuyler gives a very similar picture of his reception a few years earlier. "Everybody says it was a very fine ceremony, but being inside a gilt coach drawn by six horses with an escort of cavalry . . . I didn't see very much of it. But there were salutes of cannon from the citadel and the band played *Hail Columbia* . . . We made our little speech, then we sat down and smoked jewelled tobacco about ten feet long . . . then coffee in jewelled cups or cupholders and then as I went away a sword was hung over my head. . . ." ¹³

One of the most interesting accounts that we have of elaborate audiences is that given by Townsend Harris depicting his mission to Japan. He was informed that it would take two months to prepare for the arrival of so great a man as himself to have an audience with the Tycoon. He had special uniforms made for his men with the crest of the United States affixed to their tunics. He traveled in state to Yedo escorted by about 350 men of whom eighty were his own servants. Upon reaching the outer walls of the city he was allowed to enter in his *norimon*, an honor normally restricted to princes. He found a private compound specially prepared for him in Yedo and a drill ground was assigned to him for his daily walk. In preparation for his meeting with the Tycoon he gave the Foreign Minister a copy of his intended address and received a copy of the Tycoon's answer. The Foreign Minister called for him on the day of his presentation and conducted him to the palace. He was allowed to remain in his *norimon* until the last bridge into the royal household had been reached.

¹² Thomas Skelton Harrison, *The Homely Diary of a Diplomat in the East* (New York, 1917), 99.

¹³ Eugene Schuyler, *Essays and Memoirs* (New York, 1901), 192.

Before entering the audience chamber Harris put on new shoes. When the signal was given, the Prince who accompanied him began to crawl along on his hands and knees. As Harris entered the room a chamberlain called out in a loud voice, "Embassador Merrican". Mr. Harris proceeded into the room for a distance of about six feet, then stopped and bowed, again proceeded, halted in the middle of the room and bowed again. Finally coming before the Tykoon with the princes and brothers of the Tykoon prostrate on their faces on either side, he made a short speech as he presented his letters of credence. When this was completed he again bowed. The Tykoon began to jerk his head backward over his left shoulder three or four times, at the same time stamping with his right foot. He then replied: "Pleased with the letter sent with the Ambassador from a far distant country, and likewise pleased with his discourse. Intercourse shall be continued forever."¹⁴ Incidentally, at his second audience in 1859 to present his credentials as minister resident Harris found his reception so lacking in cordiality or even in common courtesy that he demanded and obtained a third audience.¹⁵

European Reception Ceremonies—Of the European countries Spain has kept perhaps the most elaborate audience ceremonial. The government furnishes carriages and saddle horses for the ambassador and his suite, even sending spare horses in case of accident. The ornately decorated carriage for the ambassador is drawn by six horses while the less resplendent one for the minister has but two. The ambassador is met in the courtyard by detachments from the garrison regiments and the staircase is lined by halberdiers. He is accompanied by the Introducer of Ambassadors who follows the rules of etiquette very strictly. Mr. William Miller Collier, sent as minister plenipotentiary to Spain in 1905 declared that the Introducer of Ambassadors called upon him almost every day after his arrival in order fully to discharge his duty of explaining the rules and regulations and requirements relating to the audience. He then goes on to say: "All the courts of Europe have at least one such official, although he is sometimes known as

¹⁴ *The Complete Journal of Townsend Harris* (New York, 1930), 395-475.

¹⁵ Payson J. Treat, *Early Relations between the United States and Japan* (Baltimore, 1917), 140.

Master of Ceremonies. In Spain there are two. The positions are esteemed great honors and are filled by persons in the diplomatic career of the rank of Minister Plenipotentiary. Everyone must realize how desirable is the existence of such an office, for the rules vary in different courts, and even trained diplomats must be informed as to the local usages. In a court distinguished for the formalities of its etiquette, as is that of Spain, a Master of Ceremonies or Introducer of Ambassadors is an absolute necessity."¹⁶

Upon entering the throne room the envoy makes the usual three bows, *las reverencias*, at the entrance, half way, and near the sovereign, and then makes his address. The exit is always made facing the court.¹⁷ Diplomatic etiquette still requires that representation of the same rank shall be received with exactly the same ceremony, shall ride in the same type of carriage with the same number of horses. Mr. Collier tells of a diplomat who protested because a certain sovereign did not converse with him as many minutes as he did with other foreign representatives.

Mr. Robert Underwood Johnson, sent as ambassador to Italy in 1920, gives us a full description of his presentation of his letters of credence to King Victor Emmanuel of Italy. He was accompanied by his staff in three royal coaches. The ambassador rode in the third coach escorted by the Master of the Royal House, who rode backward, facing the Ambassador. The coaches were black but decorated with red and white with two men on the box and three behind dressed in the livery of the court. The ambassador was greeted by a fanfare of soldiers' trumpets upon arriving at the palace and was conducted to a reception room to await the summons of the King. Immediately after Mr. Johnson had made his bows the King shook hands with him and after his formal speech the King chatted with him very informally. Before the audience was over the ambassador asked permission to present his staff and after that was over all bowed themselves out.¹⁸

The reception of a foreign ambassador in pre-war Germany was very similar to the ceremonies which we have already de-

¹⁶ William Miller Collier, *At the Court of His Catholic Majesty* (Chicago, 1912), 49.

¹⁷ See Sir Henry Drummond Wolff, *Rambling Recollections* (London, 1908), 390 ff.; Foster, *The Practice of Diplomacy*, 58; and the very elaborate account given by William M. Collier, *op. cit.*, 44-86.

¹⁸ Robert Underwood Johnson, *Remembered Yesterdays* (Boston, 1923), 520 ff

scribed. A minister plenipotentiary went in his own carriage, but the ambassador was honored by having three court carriages sent for him. Andrew D. White, ambassador to Germany from 1897 to 1902, was somewhat abashed by the procession with its carriages and outriders, the gaping crowds, the presentations of arms and beating of drums and found the ordeal more picturesque than agreeable. However, the reception by the Emperor was simple and kindly, informal conversation taking the place of set speeches.¹⁹

White in his remarks to the Emperor followed the long established custom of our ambassador to Germany in expressing the perennial gratitude of the United States at the remembrance that Frederic the Great was one of the first of the Continental rulers to recognize the United States.

Mr. James W. Gerard, American ambassador from 1913 to the severance of diplomatic relations between the United States and Germany, also found the presentation ceremony very pretentious. He describes his reception by the Emperor as follows: ". . . the Emperor, very erect and dressed in the uniform of the Death's Head Hussars, stood by a table. I made a little speech and presented my letters of credence and the letters of recall of my predecessor. The Emperor then unbent from his very correct and impressive attitude and talked with me in a very friendly manner. . . ." ²⁰

One of the most momentous audiences in American diplomatic annals was the occasion when John Adams presented his credentials to King George III in 1785. Mr. Adams gives a very detailed account of the event including the full text of his speech and the King's reply, both of which on this occasion departed considerably from the routine form.²¹

Walter Hines Page, America's war-time ambassador to Great Britain, in describing his presentation to King George V notes that the King's Master of Ceremonies called for him with four or five royal coaches so that the entire embassy staff might accompany him to Buckingham Palace.²² Sir Edward Grey, the British

¹⁹ *The Autobiography of Andrew D. White* (New York, 1905), 533

²⁰ James W. Gerard, *My Four Years in Germany* (New York, 1917), 22.

²¹ *Works of John Adams*, 10 vols (Boston, 1851-65), VIII, 256.

²² *The Instructions to Diplomatic Officers of the United States*, II, 16, specify that if the mission be provided with one or more counselors or secretaries the newly arrived envoy shall be accompanied by them in presenting his letter of credence.

Foreign Minister, stood beside the King throughout the ceremony. After the bows the King shook hands and the short speeches were made. The King in the course of his informal remarks expressed his surprise that a country as great and rich as the United States had not provided a residence for its ambassadors.²³

General Dawes broke many diplomatic precedents in his short but vivid career as American Ambassador to Great Britain from 1929 to 1932. He undoubtedly established a record when within eighteen hours of his arrival in England he was being taken to the King's summer residence in a landau drawn by four bay horses to present his credentials.²⁴

The present procedure at the Court of St. James's is approximately as follows: The ambassador notifies the Secretary of State for Foreign Affairs of his arrival and asks for an audience to present his credentials to the Sovereign. Upon the date fixed the ambassador is accompanied to the palace in a town coach by the Marshal of the Diplomatic Corps with his suite following in other coaches. He is met at the grand entrance by the Equerry-in-Waiting and in the Grand Hall by the Master of the Household. They conduct him to the Bow Room where he meets the Foreign Minister and the Lord-in-Waiting. The ambassador is thereupon conducted into the royal presence by the Lord-in-Waiting and the Marshal of the Diplomatic Corps who thereupon withdraw. Set speeches are not customary. After the audience the Marshal introduces the personnel of the ambassador who presents them to the King. This concludes the ceremony.²⁵

An interesting incident of diplomatic precedent arose in 1934 on the occasion of the presentation of his credentials by Minister W. W. McDowell of the United States to the Irish Free State. Instead of presenting his letter of credence to the British Governor-General, he presented it to Eamon de Valera, President of the Irish Free State. Although in some quarters the action was regarded as a snub to Great Britain, Minister McDowell reported that a responsible official of the Free State government

²³ Burton J. Hendrick, *Life and Letters of Walter H. Page* (New York, 1923), I, 135.

²⁴ Paul R. Leach, *That Man Dawes* (Chicago, 1930), 312.

²⁵ A more complete description may be found in Sir Ernest Satow, *op. cit.*, 140-142.

had informed the legation that the British authorities had agreed to the presentation of the credentials to the President of the Executive Council.²⁶

Early American Reception Ceremonial—The United States has never followed a very elaborate ceremonial in the reception by the President of foreign diplomatic representatives. In the reception accorded by President Washington to Mr. Fauchet, the French minister plenipotentiary in 1794, we have the basic outline of present day procedure. Secretary of State Randolph upon receiving a copy of his letters of credence conferred with the President and fixed the time of presentation. At the appointed time the Secretary of State in his carriage accompanied the French minister and they were shown in by the President's secretary. The President who was alone, arose bowed and Secretary Randolph introduced the French minister who presented his credentials with a brief speech. They all thereupon sat down, the President opened the sealed credentials and delivered them to Randolph who read them standing. After a brief exchange of complimentary remarks and some informal conversation, the Secretary and minister withdrew.²⁷

President Jefferson who believed in a greater degree of democratic simplicity than his predecessors was considerably more informal. In fact, the British minister, Mr. Anthony Merry, quite resented the informality of his presentation. Arriving in his official costume he found himself at the appointed hour "introduced to a man as President of the United States, not merely in an undress, but actually standing in slippers down at the heels, and both pantaloons, coat and underclothes indicative of utter slovenliness and indifference to appearances and in a state of negligence actually studied."²⁸ Stratford Canning gives an even more picturesque variant when he declares that President Jefferson received Merry "in his dressing gown, seated on a sofa and catching a slipper after tossing it up on the point of his foot"²⁹ Henry Adams blames Secretary of State Madison for not warning the

²⁶ *San Francisco Chronicle*, March 28, 1934.

²⁷ Moore, *op cit*, IV, 465.

²⁸ John W. Foster, *A Century of American Diplomacy* (New York, 1900),

²⁹ ²¹¹ S. Lane-Poole, *Life of Stratford Canning* (London, 1888), I, 316.

British minister that he would not be expected to wear full dress, but concedes that Jefferson could have received in his bare feet had he so desired.³⁰

The procedure under President Monroe is described by Secretary of State John Quincy Adams as follows: "At these audiences the President observes the usual forms practiced by European sovereigns on similar occasions. That is, he receives them standing, dressed in a half military uniform or a full suit of black. The ministers are in full court dress. He stands in the center of the drawing room and I accompany them, keeping the right hand. On receiving the letter, the President hands it unopened to me. . . . The President has a general answer to the short addresses which the ministers make in delivering these letters, namely, 'that the United States takes a great interest in everything that concerns the happiness of their sovereign,' with very little variation adapted to each particular case. He makes no other conversation."³¹

American Reception of Diplomats at the Present Time—Secretary Bayard writing in 1889 describes the procedure and we find practically no change.³² However, with the establishment of a ceremonial officer and later a chief of protocol in the Department of State this officer assumed the functions formerly performed by the Secretary of State. The following description of the ceremonies to be observed in connection with the reception of foreign ambassadors by the President was prescribed during the administration of President Hoover:

As soon as practicable after the arrival of the appointed ambassador, an official communication is addressed by him or by the chargé d'affaires to the Secretary of State, requesting that an hour be designated at which the ambassador may pay his respects to the Secretary.

On this occasion the ambassador is usually presented to the Secretary by the Chief of Protocol. During the course of the visit the ambassador requests an appointment with the President. He leaves with the Secretary a copy of his letters of credence and the text of the remarks which he will deliver when present-

³⁰ Henry Adams, *History of the United States* (New York, 1898), II, 367.

³¹ J. Q. Adams, *Memoirs*, IV, 314.

³² Moore, *op. cit.*, IV, 467.

ing these letters to the President. The ambassador is notified promptly of the time at which the President will receive him. At the hour indicated the Chief of Protocol (in formal morning dress) and the Military or Naval Aide to the President (in dress uniform) arrive at the ambassador's residence in the President's car. It is customary for the ranking Secretary of the embassy to meet these officials at the door and to accompany them to the drawing room, where the ambassador receives them and presents the other members of his staff. The party then proceeds to the White House in the following order: In the President's car the ambassador is seated at the right of the Chief of Protocol with the military or naval aide to the President on the folding seat.

In the other cars the members of the staff of the ambassador are seated according to their respective rank. Upon arrival at the White House the ambassador, walking at the right of the Chief of Protocol is escorted through the entrance, followed by his staff. A few paces inside the door the President's other Aide and four White House Aides (in dress uniform) are standing at attention. The President's Aide is presented to the ambassador, who is then escorted to the Green Room preceded by the Aides and followed by his staff. The President's Aides then withdraw to notify the President of the ambassador's arrival and to escort the President to the Blue Room, where the reception takes place.

It is customary for the President to take his position at the end of the Blue Room with his Aides on either side of him, standing slightly to the rear. The Senior White House Aide announces to the Chief of Protocol that the President will be pleased to receive the ambassador. The ambassador, with the Chief of Protocol at his left, then enters the Blue Room by way of the corridor, preceded by four White House Aides. The latter take position uncovered in the Blue Room, on either side of the entrance. The ambassador and the Chief of Protocol pause just inside the entrance and bow slightly to the President. They next advance to a position about six feet in front of the President. The Chief of Protocol presents the ambassador in the following manner:

Mr. President, I have the honor to present the Ambassador Extraordinary and Plenipotentiary of ———, His Excellency, Mr. ———.

The ambassador reads his address and the President replies. The ambassador then steps forward, presents his letters of credence to the President, and shakes hands with him. After a few moments of informal conversation the President inquires whether the ambassador will be so kind as to present the members of his staff. The Senior White House Aide proceeds to the Green Room and escorts the members of the staff to the Blue Room, walking at the left of the Senior Secretary and followed by the other members in the order of their precedence. The ambassador, standing at the President's left, presents the members of his staff, who file past the President one by one and shake hands with him.

After a few moments more of conversation the ambassador takes his leave and again shakes hands with the President. The ambassador and the Chief of Protocol, preceded by the four White House Aides, withdraw to the door, where both turn and bow slightly to the President. The members of the staff follow and also bow slightly to the President upon leaving the room.

The return to the embassy is arranged in the same manner as the arrival.

The Chief of Protocol and the President's Military or Naval Aide accompany the ambassador to the drawing room of the embassy. After a few moments of conversation they take leave of him and of the members of his staff.

President Roosevelt has varied the ceremony to a slight extent in that if he is acquainted with the new ambassador he may dispense with the reading of the address and its reply. In its place he suggests to the ambassador that they have certain greetings to exchange which they need not read. Instead, he immediately engages the envoy in a very informal conversation. The ceremony for a minister plenipotentiary is practically the same as for an ambassador.

Language Employed in Presentation—The foreign envoy in presenting his letter of credence may deliver his speech in either his own language or French, the former being the more usual in Oriental countries. The official instructions of the United States specifically state that the presentation address should be "written and spoken in English" but several instances might be cited where

the representative seems to have honored them in the breach T. Jefferson Coolidge, sent as minister to France in 1892, notes the fact that when presenting his credentials he made with some difficulty a speech in French containing the usual commonplace compliments.³³ General Horace Porter, United States ambassador to France in 1897, found out that other ambassadors and ministers invariably gave their speeches at the audience of presentation in French. Furthermore, he had received an intimation from the French Foreign Office that President Faure would find it very agreeable if General Porter would follow the established custom General Porter who could speak French fluently decided that the point was well taken and delivered his address in French submitting at the same time an exact copy in English.³⁴

When Ambassador William F. Draper was to be presented to King Humbert of Italy he had carefully memorized his speech of presentation in English. However, he was informed just before leaving his hotel for the audience that King Humbert, having learned that he spoke French, hoped that he would make his address in that language. Mr. Draper could hardly refuse, but he had misgivings as to his ability to remember and translate at the same time. Consequently, all the way to the palace with the crowds cheering, the unfortunate ambassador spent his time mentally translating his speech so that he might not stumble over an unexpected word.³⁵

James B. Angell, sent as minister to Turkey in 1897, gives a vivid picture of his presentation to the Sultan. In his case he read his speech in English of which preliminary copies in both French and English had already been sent to the Foreign Office. The Turkish Secretary then read a Turkish version of his speech. The Sultan replied in Turkish, which his Secretary translated immediately into English.³⁶

Procedure after Presentation—On occasions after the formal addresses have been given the head of the state may engage the

³³ Beckles Willson, *America's Ambassadors to France* (London, 1928), 348.

³⁴ Elsie Porter Mende, *An American Soldier and Diplomat* (New York, 1927), 177.

³⁵ William F. Draper, *Recollections of a Varied Career* (New York, 1908), 284.

³⁶ James Burill Angell, *Reminiscences* (New York, 1912), 195.

diplomatic representative in somewhat lighter conversation, that is, if the envoy is familiar with a language used by the head of the state. Henry Lane Wilson, describing his reception in Chile, found the attempt of President Errazuriz to visit with him after the formal audience a little embarrassing owing to his limited acquaintance with the Spanish language. However, he was able to show his interest and appreciation by such expressions as *si, señor, mucho*, and *poco à poco*, uttered at what appeared to be the appropriate times.³⁷

In European courts, following the delivery of the letter of credence, the ambassador was quite often introduced to the royal family. Andrew D. White mentions the fact that after his reception by the Emperor of Germany he presented his embassy secretaries and attachés and was then conducted into the presence of the Empress.³⁸ John W. Foster relates that after his audience with the Emperor Alexander II he was received by the Cesarevitch and Cesarevena. After the audience was over he had difficulty in finding the proper knob of the door, owing to the necessity of making his exit backwards. The Cesarevitch, noticing his embarrassment, shouted out in English, "Mr. Foster, take the other knob."³⁹ According to William M. Collier, American minister plenipotentiary to Spain, after the audience with the King was over he was received by the Queen Mother and her ladies in waiting. He was also expected to make a call immediately upon the Prime Minister and Minister of State, but in a frock coat rather than in full dress.⁴⁰

Once accredited through the presentation of his credentials, the diplomatic representative is expected to call upon his colleagues and to enter actively upon the performance of his functions. According to the official instructions to American diplomatic officers "the official duties of a diplomatic representative begin on the day of his formal reception by the chief of state. . . ."

³⁷ Henry Lane Wilson, *Diplomatic Episodes in Mexico, Belgium and Chile* (New York, 1927), 31.

³⁸ *The Autobiography of Andrew D. White, op. cit.*, 533.

³⁹ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 60.

⁴⁰ William M. Collier, *op. cit.*, 59-61.

CHAPTER XI

DIPLOMATIC DUTIES

I. Political Functions Relating to the Home Government

The Envoy and His Government—The diplomatic representative today is universally regarded as holding a post of dignity and honor in the service of his country. No longer can one say as did Callières: "on appelle un ambassadeur un honorable espion."¹ The position of an ambassador or minister is also a most difficult one and requires ability and probity of the highest order. Unfortunately the idea is still prevalent that diplomacy is only a synonym for intrigue and that a diplomat must deceive to succeed. Even Machiavelli, an absolute realist, knew better than that as shown by the instructions to the French ambassador accredited to Charles V, which advised him to make every effort so as not to be regarded as a man who thought one thing while he said another. Jules Cambon, a very able ambassador in his time, declared that the quality most essential in a diplomatic agent is moral integrity. "His tested trustworthiness must inspire both in the government to which he accredited and in his own government such confidence that his word will never be suspected."²

Present Importance of the Diplomatic Service—The idea has also become current that since new means of rapid communication have been discovered and the most distant post can be reached immediately by cable or radio, the foreign representative is merely an automaton carrying out the will of the foreign office. The situation is quite the reverse. The new inventions have made more complex and complicated the problems of international intercourse

¹ F. de Callières, *De la manière de négocier avec les souverains* (Paris and Amsterdam, 1716), 41.

² Jules Cambon, *Le Diplomate* (Paris, 1926), 13.

and the need for men of the highest ability to represent their country abroad has never been greater.

Secretary of State Hughes had very strong opinions on this point. "It is perfectly idle to believe that we can get along without diplomatic representatives because we have increased facility in communication. We need the man. We cannot rely on paper; we cannot rely on direct messages. We need the man in the personal contact with other men transacting the business of their government."³ Jules Jusserand, formerly French minister to the United States, was equally emphatic: "Experience has already shown and will more and more show that no invention, no telephone, no aeroplane, no wireless, will ever replace the knowledge of a country and the understanding of a people's dispositions. The importance of persuading a prince and his minister has diminished; that of understanding a nation has increased. . . ."⁴

Relations between the Diplomat and the Foreign Office—The foreign office must depend almost entirely upon the information which it receives from its foreign representatives for its guidance. Its foreign policy must be constructed upon their reports. Therefore, the most complete understanding should exist between the two and the foreign office must have the utmost confidence in the ability of its representatives. Without this relationship it is manifestly impossible for the foreign office to utilize effectively the services of its officers in the field. According to Maurice Francis Egan, United States minister to Denmark and a man of remarkable ability, "the diplomatists were much wiser than their governments—for the reason that given even ordinary ability and powers of observation, the man on the spot is likely to be much wiser than the bureaucrats of the Foreign Offices who are swayed very often by partisanship or public opinion at home."⁵

This, however, is hardly a fair presentation of the situation because the officer in the foreign office may have had just as much

³ *Foreign Service of the United States, Hearings before the House Committee on Foreign Affairs, 68th Congress, 1st Sess.*, (Washington, 1924) 13. See also Royal Cortissoz, *The Life of Whitelaw Reid* (New York, 1921), II, 344, for a somewhat similar viewpoint.

⁴ J. J. Jusserand, *The School for Ambassadors* (New York and London, 1925), 59.

⁵ Maurice Francis Egan, *Recollections of a Happy Life* (New York, 1924), 239.

experience as the officer in the field and he has the advantage of reports from many other sources and places to give him a somewhat broader and more objective viewpoint. Unfortunately, the foreign office has on occasions been inclined to justify Mr. Egan's criticism and to regard itself as the sole fount of wisdom in foreign affairs. The envoy feels that all too often the foreign office seems to disregard completely the recommendations which come from its agents abroad. This makes for a lack of confidence on the part of the representative which quickly shows itself in his work. An extreme case is cited by Bruce Lockhart in his interesting account of his work as a British agent. The Brazilian minister to Russia claimed that success in diplomacy came to him who did least. When he entered the service he was full of zeal and while at his first post as secretary in London he worked strenuously to prepare an elaborate report on the Brazilian coffee trade with England upon which he based certain recommendations. His recompense was a reduction in rank and a less important post in the Balkans. When later he was transferred to Berlin he again became zealous and furnished his government with an admirable report on technical education in Germany. Once more he suffered reduction in rank. From then on he did nothing to remind his government of his existence and his promotion was steady and rapid.⁶ Mr. William F. Draper, American ambassador to Italy, gives a somewhat similar opinion. In his autobiography he writes: "I learned later that initiative in a diplomat is not a desirable quality; that in large matters an ambassador is expected to be what some one has called a clerk at the end of a wire; and that in small ones he is liked better if he uses his own judgment without bothering the Department with detail."⁷

In the United States where appointments to important ambassadorial posts are quite often based upon political services rather than upon proper qualification, perhaps there is some excuse for this lack of confidence. When Mr. Sharp, a small town newspaper owner, was appointed ambassador to France to relieve Myron T. Herrick in the critical War period, he knew no French, little of France, and had had no experience whatsoever with diplomatic matters except for his service as member of the Con-

⁶ R. H. Bruce Lockhart, *British Agent* (New York and London, 1933), 279.

⁷ W. F. Draper, *Recollections of a Varied Career* (New York, 1908), 281.

gressional Committee on Foreign Affairs. Even Mr. Morgenthau, a man thoroughly conversant with world affairs, confessed that a new ambassador has only a month to become acquainted with the duties of his post and to receive his instructions.⁸

Perhaps another excuse for the failure of ministries of foreign affairs to accept recommendations of their diplomatic representatives is the fact that in democratic governments the parliamentary bodies must oftentimes be consulted or at least pass upon the proposals. If the matter requires secrecy the best solution sometimes is to drop the whole affair. On the other hand, an able diplomat confident that he is right can sometimes overrule the policy of the foreign office. Ambassador Page by a threat of resignation was largely instrumental in compelling the United States Department of State to relinquish its attempt to persuade Great Britain to accept the Declaration of London after the declaration of war.⁹

It is not unusual for the foreign office to ignore outspoken convictions of their envoy which actually contravene the avowed foreign policy of the appointing country. Making speeches innocuous to all parties concerned is one of the most exacting yet important duties of a diplomat, but the danger inherent in such casual commitments is apparent. Shortly after the War when former Ambassador to France, Myron T. Herrick, was asked to dedicate a memorial to French and American soldiers who had fallen at the last great battle of Champagne he took this occasion to criticize the prevailing American attitude towards reparations and to declare that the obligation of the American people did not cease with the Armistice. Several American newspapers thereupon announced that the ambassador had been disavowed by the State Department, others declared that his recall would be demanded. Secretary of State Hughes merely explained that the views expressed by Herrick were his own and that the speech did not mean any change in the attitude of the American government.¹⁰

⁸ Henry Morgenthau, *All in a Life-Time* (New York and London, 1922), 174.

⁹ Burton J. Hendrick, *Life and Letters of Walter H. Page* (New York, 1923), III, 187.

¹⁰ T. Bentley Mott, *Myron T. Herrick, Friend of France* (New York, 1929), 270-273.

The Function of Negotiation—The duties of a diplomatic agent have often been summarized by these three words: to negotiate, to observe, and to protect. But before a diplomat is in a position to do any of these things properly he should be familiar with the treaties between the two countries, the correspondence of his predecessors, in fact, with all documentary material essential to a complete understanding of his position. He must familiarize himself with the written instructions from his government to previous diplomatic officers, as well as remember at all times the special instructions to himself.

The first and most important duty of a diplomatic representative is to maintain friendly relations with the country to which he is accredited. The maintenance of peace is a vital requirement and he should bend every effort to achieve it. Charles de Martens in his *Diplomatic Guide* emphasizes the importance of this task: "The public minister must never lose sight of the fact that it is his duty at all times to act as a minister of peace; the maintenance of friendly relations must be the constant object of his efforts . . . if a misunderstanding of any sort exists between the two governments he must strive to dissipate the clouds, remove prejudices, justify his government against any accusations which may be brought against it and make any necessary complaints with the greatest possible moderation."¹¹ Or, to quote the very apt phrase of Choiseul: "La veritable finesse est la verité dite quelquefois avec force toujours avec grace."

In carrying on the duties of his mission the envoy must always support the foreign policy of his country even though it may not be pleasing to the government to which he is accredited. But in maintaining the dignity of his country, he must make every effort to justify its position. "He must join suppleness of negotiation to vigor of objectives. His motto should be the one expressed by the Baron de Martens: '*Fortiter in re, suaviter in modo.*'"

One of the outstanding examples in American diplomacy of a foreign representative exercising his influence in the maintenance of friendly relations under the most trying circumstances is the remarkable work of Charles Francis Adams, American min-

¹¹ Charles de Martens, *Guide diplomatique* (Leipzig, 1866), I, 169.

ister to Great Britain during the Civil War. Again and again by his calm and judicious presentation of the position of the North he was able to avert a rupture. Some of Secretary Seward's instructions were so bellicose and threatening that if delivered verbatim they would have brought about war "before the carriage of the American minister had rattled out of Downing Street".¹² It was fortunate that Lord Lyons, British minister at Washington, was equally desirous of keeping the peace, a statesman who has been called "one of the peacemakers of the world."¹³ In fact, Lyons in a personal letter to the Governor-General of Canada declared: "My mind is almost unremittingly employed in devising means to maintain the peace."¹⁴

During the World War when Great Britain was guilty of innumerable violations of American neutrality it was only the superb diplomatic ability of Ambassador Page which kept the United States from becoming seriously involved. An excellent example of his clever technique occurred in the case of the *Dacia*. Appreciating the fact that if the vessel were to be seized by the British it would add fuel to the already inflamed state of Anglo-American commercial relations, he arranged that the French, rather than the British, should seize this vessel; although the result was exactly the same the psychology of the situation was quite different, and what had been a serious threat to friendly relations by the British was taken as a normal belligerent action on the part of the French.

A more recent example of success in a difficult position was afforded by the conduct of Ambassador John W. Davis who was the American representative at London after the Senate of the United States refused to ratify the Treaty of Versailles. "According to associates of that period he succeeded to a remarkable degree, preserving his own dignity and that of the government he represented while never faltering in his devotion to the invalid in the White House."¹⁵

¹² See particularly the Despatch No. 10 of May 21, 1861, *U. S. Messages and Documents 1861-1862*, 88. The whole period is exhaustively treated in E. D. Adams, *Great Britain and the American Civil War*, 2 vols. (New York, 1925).

¹³ R. B. Mowat, *The Diplomatic Relations of Great Britain and the United States* (New York and London, 1925), 168.

¹⁴ *Ibid.*, 171.

¹⁵ T. A. Huntley, *John W. Davis* (New York, 1924), 117.

Observation and the Preparation of Reports—A diplomat must observe with an intelligent and unprejudiced viewpoint everything that takes place about him and report fully and accurately whatever might interest his government at home. The *Instructions to the Diplomatic Officers of the United States* state that political reporting is foremost of the duties of a diplomatic officer. The primary objects to be sought are:

- (a) To furnish information and conclusions that will enable the Department to shape its policy and furnish its officers with proper instructions.
- (b) To keep the Department informed of all negotiations in progress and of action taken by diplomatic officers in the furtherance of American interests or for the protection of American nationals . . .
- (c) To give the Department a general idea of the political situation in a given country with particular reference to the relations of the United States toward that country.
- (d) To indicate the general developments that affect peace.¹⁶

Necessarily the subjects of these reports will be exceedingly varied. Political questions will naturally take first place and the foreign office has a right to expect a full and unbiased account of all political questions which might in any way affect the relations between the two countries. Nor is it sufficient to relate the bare facts. A good diplomat should attempt to interpret the facts to the best of his ability. Baron Szilassy, a career diplomat, has well expressed this idea: "There are some diplomats who believe that their task is accomplished when they have enumerated the facts exactly, reported their conversations faithfully; they never give an opinion without being invited to do so. We do not agree with this method of approach, and believe on the contrary that if it is important to give a detailed account of interesting events it is even more important to evaluate them justly, and a government has the right to demand this of a man of judgment and experience."¹⁷

But in addition to the facts and their interpretation the envoy must describe the public men with whom he deals, evaluate their

¹⁶ *Instructions to Diplomatic Officers of the United States* (Washington, 1927), VIII, 3.

¹⁷ J. de Szilassy, *Traité pratique de diplomatie moderne* (Paris, 1928), 160.

abilities and influence. He should give a clear picture of the diplomatic scene, the relative merits of his colleagues and their respective influence and importance. In some cases even gossip and trivialities are of value in diplomatic reports. The Kaiser was so incensed at von Donnersmarck, his envoy at Copenhagen, because he was unwilling to report frivolities that he was sent back from Denmark to Wiemar.¹⁸

The United States *Instructions* suggests that it is very helpful if diplomatic officers prepare a *Who's Who* of important persons in different countries and their attitude towards the United States (VIII, 4-d). The resources of the country, its foreign and domestic commerce, its military and naval developments are all grist for the diplomat's mill. In these days when political events are so largely conditioned by economic phenomena the diplomatic representative must let no financial or economic trend escape his attention. The American ambassador to Russia at the time of the Bolshevik Revolution, David R. Francis, declared that his experience strengthened his opinion that friendly diplomatic relations could be engendered and fostered and promoted by close commercial relations. He felt that the ordinary policy of leaving commercial matters entirely to the consular service was a mistake and he devoted much time and thought to cultivating direct commercial relations between the United States and Russia.¹⁹

President Theodore Roosevelt wanted information on every possible subject from his diplomatic representatives abroad and every important matter had to be reported with the greatest detail. In fact, certain legations found their principal work was the compiling of reports upon sociological, economic, and financial matters.²⁰ Ambassador Page while in London regarded it as his duty to collect information and impressions, to discover what important people thought of the United States and its policies and to send forward all such data to Washington. He called himself "a listening post on the front of diplomacy".²¹

Form of Reports—The older writers on diplomacy paid a

¹⁸ Egan, *op. cit.*, 247.

¹⁹ David R. Francis, *Russia from the American Embassy* (New York, 1921),

25.

²⁰ Egan, *op. cit.*, 223, 235.

²¹ Hendrick, *op. cit.*, I, 361.

great deal of attention to the form and content of these *depêches*. Meisel in his excellent work entitled *Cours de Style Diplomatique* has given very careful consideration to this subject: "The public minister will relate simply and naturally all the information that he obtains during the course of a negotiation and whether he is making a report essentially historical or whether he is merely expressing his opinion, he will avoid all recondite expressions and all rhetorical efforts, remembering well that it is not his function to persuade but rather to make a clear exposition of the matter . . . he will choose the clearest expressions and the most exact to express his ideas, and to retrace the facts as they have occurred; clarity is much to be preferred to prolixity."²²

In every case where the report contains the translation of a document or a newspaper article or political discourse the envoy will do well to enclose a copy in the original language. Despatches are ordinarily in the form of telegrams or letters. The envoy must decide which form should be used. Usually the majority of reports will be regular despatches prepared to catch the mail boat or mail train but when emergencies arise the diplomat should not hesitate to use the telegraph. On occasions a brief résumé of the situation can be telegraphed and fuller details reserved for letters following. Sometimes the envoy uses telegrams when he feels that his written communications do not receive the proper attention at the foreign office. Upon occasions the envoy has even been compelled to make use of a foreign press correspondent whose despatches to his newspaper would most certainly be read by the foreign minister before the official telegrams of the envoy.

*Lack of Coöperation between Foreign Offices and Envoys—*It seems to be a common feeling on the part of ambassadors and ministers that the foreign offices pay too little attention to their despatches. Robert Underwood Johnson while ambassador to Italy, although he endeavored to send the Department only the most significant information, complained that hardly ever did he receive even the response of acknowledgment.²³ Miles Poindexter, former American ambassador to Peru, once told the writer that

²² August Heinrich Meisel, *Cours de style diplomatique* (Paris, 1826), II, 301.

²³ Robert Underwood Johnson, *Remembered Yesterdays* (Boston, 1923), 556.

if the State Department had paid the slightest attention to his despatches the United States would never have proposed a plebiscite as a means of settling the Tacna Arica dispute. Ambassador Page became so incensed at the little attention paid to his telegrams that he threatened to send a despatch saying that an earthquake had swallowed up the Thames, that a suffragette had kissed the King, and that the statue of Cromwell had made an assault against the House of Lords, to see if anybody would decipher it.²⁴

On the other hand, the diplomatic representative is not always kept fully informed of important developments or events which are vital to the proper performance of his duties. A famous instance of this sort occurred in connection with Mr. William Trescot's attempt to bring about a fair settlement of the War of the Pacific. When Secretary Frelinghuysen succeeded Secretary Blaine, a change of policy was inaugurated but Mr. Trescot was not informed. It was only from the Chilean foreign minister that he learned that new instructions had been issued and they were already in the hands of the Chilean government. His surprise and chagrin may easily be imagined.²⁵ Ambassador Francis tells that on one occasion when he made an address to the Russian people upon his own responsibility he learned of the State Department's approval two months later through a newspaper clipping sent to him by Mr. Morris, the American Minister to Sweden.²⁶ The story is told that when President McKinley died the American ambassador at one of the largest European capitals received his first news through an Associated Press correspondent, and then only ten minutes before the doyen of the diplomatic corps came to offer his condolences.²⁷

Maintaining the Secrecy of Despatches—The question of preserving the secrecy of the despatch is sometimes an important element and the envoy must decide how the despatch should be sent to meet most satisfactorily the situation which he faces. Even when sent in code if the message goes via 'foreign cables the envoy cannot be sure that it will not be copied and deciphered by experts

²⁴ Hendrick, *op. cit.*, I, 239.

²⁵ Graham H. Stuart, *Latin America and the United States* (New York, 1928), 400.

²⁶ David R. Francis, *op. cit.*, 232.

²⁷ Anonymous, *Intimacies of Court and Society* (New York, 1912), 9.

trained in this work. It was the Japanese claim that due to the activities of the "American Black Chamber" which decoded all cables sent by Washington embassies to their governments Charles Evans Hughes knew in advance that the Japanese delegation to the Washington Conference of 1922 had been instructed to yield on the famous 5-5-3 ratio²⁸

During the World War even the most elaborate codes and ciphers were penetrated by enemy experts. According to Major H. O. Yardley, American cryptographer during the World War, Great Britain was able to read every code telegram that was transmitted over her cables.²⁹

Even in peace time the problem of maintaining the secrecy of diplomatic communications sometimes arises. On one occasion when the Sultan of Turkey wished to get an answer to a message which he had sent indirectly to a former American minister to Turkey he asked that the answer be sent in a letter to the chief dragoman of the American legation who would deliver it to the Sultan through the hands of a special court chamberlain.³⁰ Even in the United States there have been occasions when the diplomatic representative has been invited to write a private letter to the Secretary of State lest his official despatches be read by persons who were not sufficiently discreet.³¹ Henry Lane Wilson while minister to Chile during the Spanish-American War worked out a code system to be used between the diplomatic and consular offices in South America which was of great value in maintaining surveillance of ships of all nationalities entering South American ports³²

Relations with the Press—It goes without saying that a diplomat should always be on the friendliest relations possible with the foreign correspondents of the newspapers of his own country. They can be of inestimable use to him and their ill will can do him

²⁸ Drew Pearson and Robert S. Allen, "The Washington Merry Go Round," *San Francisco Chronicle*, November 18, 1932.

²⁹ Herbert O. Yardley, *The American Black Chamber* (New York, 1931), 219.

³⁰ Cortissoz, *op cit*, II, 158.

³¹ Herbert W. Bowen, *Recollections Diplomatic and Undiplomatic* (New York, 1926), 243.

³² Henry Lane Wilson, *Diplomatic Episodes in Mexico, Belgium and Chile* (New York, 1927), 50.

considerable harm. Henry Lane Wilson goes so far as to recommend that newspapers choose their foreign correspondents very carefully so that they may not misinterpret the acts of a minister and thereby lower his prestige with the government to which he is accredited and at the same time impair his usefulness.³³ In fact, diplomats have been known to speak of press correspondents as their "colleagues of the press". The United States *Instructions* emphasize the fact that "good relations with press correspondents, and especially with those representing the American press are of the greatest importance in that they are close followers of the political situation and are often able to put inquiries and obtain information which could not be obtained discreetly by the diplomatic mission."³⁴

As regards the press of the country to which he is accredited the envoy must necessarily exercise the greatest discretion. Sometimes it is advisable to give interviews; on occasions the representative must object to the implication of statements which reflect upon his country's foreign policy or he may deny outright misstatements of fact. Usually, however, the diplomat finds it advisable to pass over in silence attacks in the press unless they are so violent as absolutely to require his attention.

Sometimes a diplomatic representative seems to have no realization of the position of the press in the country to which he is sent. An excellent example of this is cited by Poultney Bigelow. The German ambassador to the United States, Doctor von Holleben, came to him and in all seriousness asked for his assistance to purchase the good will or at least the silence of the *New York Herald* in regard to the Emperor of Germany. He seemed much astonished to learn that the private income of the proprietor of the *Herald* was probably greater than that of William II and was somewhat offended that Bigelow regarded the proposal as a joke.³⁵ George Seldes, a well known American newspaperman, found that the American press in Mexico City during the Calles administration was anti-government, therefore all the news was colored by this sentiment. He felt that if the newly appointed American ambassador, Mr. Morrow, was to succeed in his policy of good will,

³³ Wilson, *op. cit.*, 186.

³⁴ *Instructions, op. cit.*, VIII, 6-b.

³⁵ Poultney Bigelow, *Prussian Memories, 1864-1914* (New York and London, 1915), 140

the newspaper attitude would have to be changed accordingly.³⁶ In some of the larger American embassies, as for example, the Paris embassy, a diplomatic secretary is definitely assigned to have regular interviews with the correspondents of the press, both American and foreign. These conferences are often of equal value to both the press and the embassy.

The Protection of Nationals—One of the duties which all governments require of their diplomatic representatives in foreign lands is the protection of nationals whose rights have been abused by local authorities. De Garden in his classic *Traité complet de diplomatie* declares that certainly one of the most honorable and most useful functions of the minister is to defend carefully and favor the interests of his fellow citizens in the country to which he is accredited. "But the foreign envoy must not furnish his assistance and his support to his nationals except after they have had recourse in vain through regular channels to the local authorities to obtain justice. The public minister must also use prudence, tact and moderation in the questions that he is called upon to settle."³⁷ The United States in its regulations makes it an essential requirement in all cases that the right of a citizen to claim protection is founded upon the correlative right of the United States to claim his allegiance and support. The instructions also require a careful examination into the applicant's grievances. If the complaints are well founded the diplomatic representative should interpose firmly but with courtesy and moderation with the appropriate authorities and report the case to the Department of State for its further action if any be required.³⁸

International Claims—The annals of diplomacy are full of interesting cases which fall under the heading of protection of nationals. Professor Edwin M. Borchard in his exhaustive treatise entitled *Diplomatic Protection of Citizens Abroad* has covered the subject particularly as regards international claims in a most scholarly manner. In legitimate cases where the claimant has exhausted local remedies he appeals to his government which may

³⁶ See George Seldes, *You Can't Print That* (New York, 1929), 348.

³⁷ Paul Fauchille, *Traité de droit international public* (Paris, 1926), I, Part iii, 53.

³⁸ *Instructions, op. cit.*, XI, 5, 6.

then support his claim through its diplomatic agencies if the claim is just and political conditions permit. According to John W. Foster, "No other branch of international relations presents to the American diplomatic representative such a fruitful source of embarrassment as the private claims of his countrymen against the government to which he is accredited."³⁹ The more important cases of this sort are referred to claims commissions or arbitration tribunals.⁴⁰ In this connection an interesting incident arose when Secretary of State Hay asked Ambassador Choate, then representing the United States in London, to serve as counsel for the United States before the tribunal to which the Alaska Boundary case was to be referred. Choate refused on the ground that it was incompatible with his position as ambassador to take an active part in the procedure, but agreed to give any other assistance in his power. The State Department was not particularly pleased at his refusal.⁴¹ In the famous Venezuela Claims case the American minister, Herbert W. Bowen, was given plenary powers to represent Venezuela by President Castro authorizing him to effect a settlement of the claim with the diplomatic representatives at Washington of the claimant powers, or the preliminaries of such claims as were to be submitted to The Hague for arbitration. Mr. Bowen proceeded to Washington and settled some of the claims and had the rest referred to The Hague Tribunal.⁴²

The instructions to American diplomatic officers do not permit the envoy to intervene without specific authority if the claim is founded on contract. Even in cases of tort unless the necessity is urgent it is expected that the diplomatic agent will communicate with the Department of State before acting.⁴³ Aliens preferring claims against the United States must present them through their governments' diplomatic representatives in Washington.

Sometimes, it must be confessed, a stronger power will flagrantly abuse the right of protecting its nationals in its dealings

³⁹ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 359.

⁴⁰ For extensive treatment of this subject see J. B. Moore, *Digest of International Law* (Washington, 1906), VI, Ch. 21, "Arbitrations," *passim*, C. C. Hyde, *International Law* (Boston, 1922), I, 472-538.

⁴¹ E. S. Martin, *Life of Joseph H. Choate* (New York, 1920), II, 220-222; see also W. R. Thayer, *Life and Letters of John Hay* (New York, 1915), II, 212.

⁴² Herbert W. Bowen, *op. cit.*, 257-273.

⁴³ *Instructions, op. cit.*, XI, 8.

with a weaker one. The government of Haiti arrested a certain Luders, born of a German father and a Haitian mother. He sought aid from the German legation. The German chargé d'affaires demanded that he be liberated, that an indemnity be paid and the officials who arrested him be punished. Inasmuch as the matter was pending and Luders was Haitian according to local law, the government of Haiti insisted that justice be permitted to take its course. Thereupon Germany broke off diplomatic relations, sent two warships to Port-au-Prince, asked an indemnity of \$30,000 and an apology, and if this were not forthcoming, the city would be bombarded. Haiti could do nothing other than agree to the odious conditions which had been imposed.⁴⁴

Protection of Individual Rights—The Mexican government, disgruntled because foreign representatives had been too officious in their protection of foreign property and foreign nationals in Mexico, decreed that foreign proprietors agree not to invoke the diplomatic protection of their government, but consent to submit themselves as Mexicans to Mexican laws in all difficulties which might arise concerning their property. This was such a manifest denial of the rights of protection guaranteed by international law that the United States refused recognition of the Mexican government until it was modified.⁴⁵

The American diplomatic and consular representatives are constantly finding it necessary to protect American citizens who carelessly or thoughtlessly violate laws or regulations of foreign countries. A young American voyaging in the Mediterranean in his cabin cruiser got into waters listed by the Turks as naval reserves. He anchored, went on shore and raced up and down for exercise. He was seized, found to be without a passport upon him and thrown into jail as a spy. The American Embassy found out from *Who's Who* that his father was a prominent and wealthy American. The attention of the Turkish government was called to the undesirable publicity and even ridicule with which the affair would be treated in the American press if the Turkish authorities had made a mistake, as they undoubtedly had. The Turkish government, finding no incriminating documents and appreciating the

⁴⁴ *Revue générale de droit international public*, V, 103-116.

⁴⁵ Stuart, *op. cit.*, 140.

point made by the American Embassy, released the young man.

Formerly the diplomatic representatives of the United States were constantly called upon by naturalized American citizens who returned to the country of their birth and thereupon were inducted into military service. Before the Act of 1868 giving naturalized citizens abroad the same protection as native citizens, a naturalized citizen was not regularly protected against military service in his native country. Mr. Wheaton, when minister to Prussia, made that abundantly clear in the case of Mr. Knoche, a naturalized American citizen forced into the Prussian army.⁴⁶ Subsequently the United States made an effort even in these cases and often was successful. John Bigelow cites several instances where he was successful in France.⁴⁷ Andrew D. White got into one of his few disputes with Bismarck over the case of a young Hebrew who had been arrested in Alsace-Lorraine for trying to evade his military service.⁴⁸ The United States was finally compelled to adopt the policy long followed by Great Britain and, except in unusual instances, refuse protection as regards military service to naturalized citizens returning to their native country.

Services Rendered to Nationals—In addition to protection, a diplomat is called upon to render all sorts of services to his nationals some of which he finds exceedingly tiresome. Certain duties such as issuing of passports, solemnizing of marriages, aiding destitute nationals, are oftentimes specifically required of the diplomatic representative. But these are a very small part of the services which he renders to his fellow citizens. Walter H. Page gives an amusing picture of the scope of these duties while he was ambassador in London during the War years: "There are a dozen other kinds of activities such as American marriages which they always want the ambassador to attend; getting them out of jail when they are jugged; looking after the American insane; helping Americans move the bones of their ancestors; interpreting the income-tax law; receiving medals for Americans; hear American fiddlers, pianists, players; sitting for American sculptors and photographers, writing letters of introduction, getting tickets to

⁴⁶ Moore, *op. cit.*, III, 564

⁴⁷ John Bigelow, *Retrospections of an Active Life* (New York, 1909), 406.

⁴⁸ *The Autobiography of Andrew D. White* (New York, 1905), 592-595.

the House Gallery; getting seats in the Abbey; getting tickets to the races, the art galleries, the House of Lords; . . . people who are going to have a fair here; lunch for returning and outgoing diplomats, people who present books, women who wish to go to court. . . ."⁴⁹

Presentation of American Women at European Courts—The duty of presenting American women at the courts of European royalty has always been a very thorny problem for American ambassadors to monarchical posts. The diplomatic regulations state that it is the policy of the Department of State not to take any part in matters concerning the presentation of American citizens at foreign courts so the matter is left entirely to the discretion of the ambassadors and ministers.⁵⁰ Inasmuch as the number to be presented is strictly limited and the number desirous of meeting royalty is very great, the position of the diplomat is an unhappy one. Political influence must be taken into consideration as much as social standing.

John Quincy Adams while minister to Russia laid down very strict rules regarding court presentations and was caustic in his remarks concerning them. "The ambition of young Americans," he declared, "to crowd themselves upon European courts and into the company of nobility is a very ridiculous and not a very proud feature of their character. There is nothing in my estimation of things meaner than courting society when if admitted it is only to be despised. Yet such is this vicious appetite for great acquaintance and so little delicacy has it that an American minister abroad can preserve himself from sharing in the scramble which it excites only by adopting such rules as these."⁵¹

Secretary of State Seward in his instructions to Mr. Dayton, the American minister to France in 1862, showed considerable resentment at the actions of certain Americans who were causing embarrassment to the American representative by their personal pretensions. Secretary Seward advised him that he should "rather introduce nobody, however justly distinguished, than let a question

⁴⁹ Hendrick, *op. cit.*, I, 160.

⁵⁰ *Instructions, op. cit.*, XI, 12.

⁵¹ C. F. Adams, *Memoirs of John Q. Adams*, II, 305.

of fashion or ceremony appear in the records of the important period in which we are acting for the highest interests of our country and of humanity." ⁵²

Elihu B Washburne, minister to France during the period of the Franco-Prussian War, seemed to have appreciated the opportunity to present American ladies to the Empress. At his first presentation he introduced twenty-eight American ladies, more than any other nationality. He confessed that his electioneering experiences in nine Congressional campaigns stood him in good part in remembering names. ⁵³

Arthur Sherburne Hardy, American minister to Athens, tells that "it was in Greece that we began to encounter those perplexities growing out of the ambition of one's nationals to bask in the sun of royalty. . . . Armed with one of those letters from the State Department bespeaking for the bearer special courtesies and privileges, the American applicant presents his claim for an audience with the same easy assurance with which he adds to his belt the scalp of any notable object double-starred by Baedeker." ⁵⁴

Diplomatic Assistance to Students—American diplomatic representatives can be and usually are of great assistance to scholars, scientists, archaeologists and other investigators who need diplomatic support to carry on their research projects. A research student may not work in the famous *Bibliothèque Nationale* in Paris without a letter of recommendation from his diplomatic representative. Poultney Bigelow points out that neither Prescott nor Washington Irving could have prosecuted their researches in the Spanish archives without diplomatic assistance. He gives James Russell Lowell, American minister to Great Britain, credit for opening up the English archives to him. ⁵⁵ The author when making a study of the international city of Tangier received most valuable assistance from Norman Armour, then counselor at the Paris embassy, and through his assistance was enabled to check certain confidential documents in the French Foreign Office ar-

⁵² Moore, *op cit.*, IV, 571.

⁵³ Elihu B. Washburne, *Recollections of a Minister to France* (New York, 1899), I, 36.

⁵⁴ Arthur Sherburne Hardy, *Things Remembered* (New York, 1923), 123.

⁵⁵ Poultney Bigelow, *op. cit.*, 164.

chives. The subsequent work in Morocco would have been wholly impossible without the constant aid and coöperation of Maxwell Blake, the American diplomatic agent.

Diplomats Improve Commercial Relations—American diplomatic representatives are instructed to give a certain amount of assistance to legitimate American commercial interests. In extending such aid the envoy is cautioned to avoid discrimination between competing American interests and to see to it that such assistance is consistent with his other duties and with his diplomatic character. "Such assistance normally may include aid in the establishment of contacts, the giving of information and the making of judicious suggestions, but officers will carefully avoid acting as intermediaries or participating in private business transactions or taking responsibility for decisions of the private American interests concerned."⁵⁶

Extradition of Fugitives—The United States has treaties with most foreign countries for the extradition of fugitive criminals upon the demand of the state from which the fugitive has fled. Without such a treaty the United States does not regularly either surrender or request the surrender of a fugitive. When a case arises the President of the United States through the Secretary of State instructs the diplomatic representative to request the provisional arrest of the fugitive pending the receipt of the formal extradition papers. Such requests are regularly addressed to the foreign office of the state to which the criminal has fled. As a general rule the function of the diplomatic representative is of purely routine nature. However, there have been occasions where the American representative has had an excellent opportunity to use his ingenuity to bring about the extradition of a fugitive from justice.

One of the best examples of diplomatic finesse occurred in the recent case of Samuel Insull. It will be remembered that Mr. Insull, having been accused of and indicted for the crimes of embezzlement and larceny in connection with the Middle West Utility Company and the Mississippi Valley Utility Corporation, had fled to France. On October 7, 1932, the Department of State cabled the

⁵⁶ *Instructions, op. cit.*, XI, 11, note.

American embassy in Paris requesting the provisional arrest and detention of Samuel Insull with a view to his extradition. When the embassy made the request it was informed unofficially that Insull had left for Italy on October 4. A few days later the State Department learned that Insull had been arrested in Athens and was being detained upon a technical inquiry into his identity and purpose in Greece but unless a request for extradition was made he would be released within twenty-four hours. Unfortunately although an extradition treaty with Greece had been signed and approved, ratifications had not been exchanged so the Greek government could not extradite him nor keep him in custody. Venizelos, however, agreed to detain Insull in Greece until the extradition treaty was ratified. In the meantime the United States instructed the American legation to take up Insull's passport but he refused to surrender it. On November 1 the exchange of ratifications occurred and on November 4 Insull was again arrested and provisionally detained. A new delay occurred due to the failure of the Governor of Illinois to make the request to the Department of State for a writ of extradition. As a result, the Greek government became somewhat uncertain as to the intentions of the American government, and it required very delicate diplomatic action to have Insull kept in custody.

The writ of extradition was finally applied for on November 15 and issued by President Hoover the same day. A certified copy of the papers was sent to the American legation together with the extradition warrant. However, when the case was brought before the Athens Court of Appeals it was held that the charges were unproved and the request for extradition was denied. The United States thereupon cancelled Insull's passport and prepared to bring new charges. In the meantime Insull applied for Greek citizenship and declared his intention of exploiting Greek lignite mines and Macedonian coal mines. On August 26, 1933 a second request for extradition was made and Insull was again taken into custody. According to press reports the United States legation submitted twenty-four volumes in Greek and English to support the extradition requests.⁵⁷ Again the Greek Court of Appeals refused extradition on the ground that proof of criminal intent was lacking. The United States thereupon in an exceedingly caustic note denounced

⁵⁷ *New York Times*, September 20, 1933.

the extradition treaty inasmuch as no further action under the treaty would be advisable.

It was now up to American Minister MacVeagh to obtain the expulsion of Insull without in any way committing his government or indicating that the United States had any further official interest in the matter. Minister MacVeagh knew that Greek law provided the means for expelling an alien by executive order for reasons of public interest upon the recommendation of the cabinet. The American Minister in a very discreet manner let the Premier know that the continued presence of Mr. Insull in Greece could not help but be an impediment to the desired cordial relations between the two countries. When the Greek government replied that it would like to expel the fugitive but could not send him away legally to any other country the American minister promised that either the cancellation of Mr. Insull's passport would be rescinded or he would be furnished with valid travel documents. Apparently the suggestions of the American representative were not disregarded, for a few weeks later the Greek government notified Mr. Insull that he would have to leave Greece at the end of a month. Mr. Insull thereupon fled ingloriously to Turkey, but his race was run. Due to the hurried ratification of an extradition treaty between the United States and Turkey, Mr. Robert P. Skinner, American Ambassador at Ankara, took the fugitive into custody. Diplomacy had succeeded where legal methods had failed.

Another interesting example of clever diplomatic technique occurred earlier in connection with a case of irregular extradition. The Spanish authorities in Cuba, learning that a Cuban who had committed a murder in Havana was living in Florida, kidnapped him and brought him back to Cuba without the knowledge or consent of the United States. When Secretary of State Blaine learned of this highhanded procedure he cabled the American representative in Madrid, General Grubb, to have the fugitive returned to the United States. General Grubb's protest that the procedure was "illegal" seemed to have no effect on the Spanish Minister of Foreign Affairs.

At the suggestion of Secretary Blaine, General Grubb visited the Spanish minister again the following day but this time declared the procedure was "irregular" since extradition was provided for just such cases. Since irregular methods are open to the

suspicion of being unfriendly and a delicate situation already existed in Cuba, a friendly relationship between the two powers was particularly desirable. The American envoy suggested thereupon that the execution be stayed, the criminal be returned to the United States and that a requisition for the return of the criminal be presented immediately to the United States through the Spanish diplomatic representative. The Spanish minister yielded to the argument and a diplomatic conclusion to the incident was satisfactorily arranged.⁵⁸

⁵⁸ Bowen, *op. cit.*, 164.

CHAPTER XII

DIPLOMATIC DUTIES

II. Political Functions Relating to Foreign States

Relations with the Government to Which Envoy Is Accredited

—In all of his relations with the government to which he has been accredited the envoy must bear in mind constantly that the principal object of his mission is the maintenance of cordial relations between the two states. Therefore, the tone of all notes and communications to the foreign government must be courteous and all irritating or provoking expressions carefully avoided. An outstanding illustration of this requirement occurred early in American history when the British minister, Francis James Jackson, took a very haughty tone in dealing with the American Secretary of State. He even went so far as to accuse the President and Secretary of State of deliberately formulating an agreement with his predecessor with full knowledge that this was contrary to the British minister's instructions. Secretary of State Robert Smith, after denying the allegation, categorically informed Mr. Jackson that "such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes itself."¹ When Jackson repeated his unwarranted assertions, the President dismissed him and published the correspondence.

It not infrequently happens that the original form of such notes is of an undiplomatic nature, and it is then the practice of some embassies to smooth down any uneven language before transmitting the document. One such occasion arose during the early part of the War when Secretary Bryan was absent from the State Department and Mr. Lansing prepared a long communication to Ambassador Page in London which, before being sent, was shown to the British Ambassador to the United States, Sir Cecil Spring-

¹ Beckles Willson, *Friendly Relations* (Boston, 1934), 69-74.

Rice The British representative declared that had the despatch gone as written it would have been tantamount to a declaration of war and that if, by any chance, the newspapers had got hold of it, as so often happened during the days of State Department disorganization, panic might have occurred. Despite the ameliorating influences of Colonel House and President Wilson, however, the note as actually sent was sufficiently caustic to inspire Sir Edward Grey, Foreign Secretary, to comment: "This reads as though they thought that they are still talking to George the Third."²

The sincerity of the foreign government must never be called into question. "Facts may be denied, deductions examined, disproved, and condemned, without just cause of offense; but no impeachment of the integrity of the government in its reliance on the correctness of its own views, can be permitted without a total forgetfulness of self-respect."³

Character and Form of Negotiations—As to their character—these negotiations may be official, semi-official or confidential. A negotiation is official when it is made in the name of the government and the agent assumes the responsibility for it. A semi-official negotiation on the contrary imposes no responsibility upon the government, it informs without pledging. Relations with the *de facto* instead of with the *de jure* government of a state are sometimes spoken of as semi-official. Confidential negotiations are, as the word implies, those which are carried on wholly outside of official reports and must remain secret between the parties concerned.⁴

As to form—the relations between the agent and the government to which he is accredited are written, oral, or mixed; and it may be said that as far as possible the envoy should carry on political negotiations orally. Rayneval gives it as a general rule that a public minister must be very reserved in his written communications lest he place himself in a compromising situation

² Burton J. Hendrick, *The Life and Letters of Walter H. Page* (New York, 1925), I, 378–391. See also Stephen Gwynn, *The Letters and Friendships of Sir Cecil Spring-Rice* (Boston and New York, 1929), II, 233.

³ John Bassett Moore, *Digest of International Law* (Washington, 1906), IV, 707.

⁴ Raoul Genet, *Traité de diplomatie et de droit diplomatique* (Paris, 1931), II, 380.

which must later be disavowed.⁵ Ordinarily a diplomatic agent should not communicate the text of the instructions that he receives unless specifically ordered to do so. He can impart the sense of his instructions by word of mouth with equal force and much less risk. However, when in 1825 the Russian and Austrian ambassadors informed George Canning, Foreign Minister of Great Britain, that they could read the despatches from their governments to him but were prohibited from giving him copies, he refused to listen to the reading of a despatch unless he was allowed to retain a copy of it. Otherwise they could limit themselves to verbal communications. It is interesting to note that some five years earlier when Stratford Canning was Minister to the United States he was instructed by Lord Castlereagh, British Foreign Minister, to transact his business with the American Government as far as possible by personal intercourse with the Secretary of State, rather than by writing notes, in order to avoid diplomatic controversy.⁶ Dwight Morrow, according to his biographer, Harold Nicolson, conducted practically all his negotiations with Mexico orally.

Forms of Correspondence—According to the Baron de Sziassy, the correspondence between the envoy and the minister of foreign affairs, following universal usage, is carried on in the four following forms:

1. The note or official letter which bears regularly the signature of the one who sends it and is addressed to the minister or to the one to whom it is sent personally; it is the official document *par excellence*; and is usually in the first person, though sometimes in the third;
2. The *note verbale* which originates in the chancellery, which is drafted in the third person and is never signed;
3. The *mémoire*, *aide-mémoire*, or memorandum, a document which has for its purpose to fix certain points in the memory of the interlocutor; the *mémoire* is concise, absolutely impersonal, relates facts only and never bears a signature;

⁵ Baron Gérard de Rayneval, *Institutions du droit de la nature et des gens* (Paris, 1832), 373.

⁶ Beckles Willson, *op. cit.*, 109.

4. Private letters which vary in form according to the subject, the end in view and the degree of intimacy of the correspondents.⁷

Mention should also be made of collective or identic notes utilized by the powers in making joint representation to a government in regard to a particular matter. Turkey and China have often been recipients of such communications.

Oral interviews between the envoy and the minister of foreign affairs take place generally at the bureau of the ministry at an official reception or at the hour fixed by the minister. "The oral forms of diplomatic negotiation clearly cannot be enclosed within the frame of a rigorous classification. Only the experience and the practice of the agent . . . can guide him in the delicate and difficult art of oral reports."⁸

If the affair is very complicated and easily susceptible of misunderstanding the envoy may complete his verbal overture by leaving in the hands of the minister of foreign affairs a short memorandum on the subject. This procedure is designated by the term *mixed relations*.

Ceremonial Communications—Among those functions which sometimes fall to the lot of the diplomatic envoy is the drafting of ceremonial letters which are exchanged between the heads of states on the occasion of certain important events: the accession to the throne, the election of a president, the birth of an heir to the throne, the death of the head of the state, a royal marriage,—all these ceremonial occasions require letters of felicitation or condolence. The Bureau of Protocol in the Ministry of Foreign Affairs is responsible for the drafting of these communications, but sometimes when the occasion requires, the envoy must do it for himself.

On many occasions American diplomats have had to serve in this capacity. Arthur Sherburne Hardy, a career diplomat of the United States, relates that in his day "the death of a princess or the celebration of a royal birthday was passed over in official silence by the Department of State. It was embarrassing when telegrams of condolence or of felicitations were pouring in from

⁷ J. de Szilassy, *Traité pratique de diplomatie moderne* (Paris, 1928), 66; see also E. Satow, *Diplomatic Practice* (London, 1932), 56-71.

⁸ Genet, *op. cit.*, II, 385.

the foreign offices of colleagues to maintain an isolated and apparently indifferent taciturnity. Silence was no longer golden nor was the expression of a merely personal feeling conveyed by the inscription of one's name in the visitors' book of the Palace quite sufficient. It was therefore my practice to feign an official outburst of sorrow or joy appropriate to the event and to fabricate messages unknown to the cable."⁹

In some countries a function called signing the books takes place on national holidays, on birthdays or upon the decease of members of the royal family. In France the book is signed at the Elysée and cards left for the prime minister and minister of foreign affairs. In Rome it is done after one has been at court and also on birthdays of members of the King's household. In London the books are kept for "inscription on the King and Queen" and serve as a substitute for leaving cards.

Relations with Officials—In addition to his relations with the foreign minister the envoy must carry on friendly relations with the subordinates in the foreign office and with numerous other officials of the government. Much of his influence will depend upon the position which he makes for himself in this governmental hierarchy. If he fits himself into the structure he will find not only his sources of information augmented but his influence in improving friendly relations increased many fold. For a considerable period of time the United States was unfortunate in its choice of ambassadors to Mexico. They stood aloof and seemed wholly unable to meet the Mexican government officials on a common ground. Then President Coolidge in 1927 by a happy inspiration chose Dwight Morrow as ambassador to Mexico. The atmosphere cleared as if by magic and relations between the two countries were quickly placed upon a sound basis of mutual coöperation and friendship.

Interference in Internal Affairs—One of the fundamental rules of diplomatic practice stipulates that a public minister must not interfere in the internal affairs of the state to which he is accredited. In the instructions to American diplomatic officers they are expressly "forbidden to participate in any manner in the po-

⁹ Arthur Sherburne Hardy, *Things Remembered* (New York, 1923), 146.

litical concerns of the country of their residence; and they are directed especially to refrain from public expressions of opinion upon local political or other questions arising within their jurisdiction." ¹⁰

Nevertheless, actual cases of interference in the internal affairs of the states to which the envoys are accredited are very numerous. In France, for example, the papal nuncios on several occasions have corresponded directly with the national clergy and have encouraged resistance to the national laws.¹¹ Monsieur de Reus, Dutch minister at Caracas in 1908, was deprived of all official authority by the Venezuelan government for having addressed to the publication of an organization of students of the Public School of Commerce a letter in which he expressed himself with a certain severity towards the government in power. This strictly private letter was brought to the attention of President Castro and it required no more than this for the Dutch minister to receive his passports together with a note of condemnation ¹²

There is also the unfortunate case of Lord Sackville-West, British Minister to the United States, who was the victim of a political plot. He had received what purported to be a private letter asking him to name the candidate for the presidency of the United States whose election in 1888 seemed the most favorable for the maintenance of friendly relations between Great Britain and the United States. He replied frankly, and his reply was divulged by his correspondent. The United States asked for his resignation immediately.¹³

There are occasions when the envoy seems justified in intervening in a matter of foreign policy when its continuance would manifestly jeopardize the existing friendly relations. Yet even in such cases the results are rarely satisfactory. In 1921 the Congress of the United States voted an immigration law which abrogated the Gentleman's Agreement of 1907 with Japan. During the debate in the Congress the Japanese ambassador, Mr. Hanihara, wrote a letter to the Secretary of State, Mr. Hughes, in which he spoke of

¹⁰ *Instructions to Diplomatic Officers of the United States* (Washington, March 8, 1927)

¹¹ Paul Fauchille, *Traité de droit international public* (Paris, 1926), I, Pt iii, 54

¹² Genet, *op cit*, II, 393, 465

¹³ Moore, *op. cit.*, IV, 536-548.

grave consequences which might follow the acceptance of this measure. The letter raised a tempest in the Senate, which regarded it as a veiled threat. The action of the ambassador only rendered the more certain a favorable vote upon this measure.

In times of extreme emergency such diplomatic action is not uncommon and the State Department approved the very drastic policy of United States Ambassador David Francis who, in 1918, issued an impassioned appeal to the Russian people to disregard the Brest-Litovsk Treaty and to repel the Germans. The German Minister of Foreign Affairs demanded that Francis be removed, but the Bolshevik government replied that he had said no more than President Wilson had said to the Bolshevik Congress.¹⁴ In fact, his chief, President Wilson, followed almost the identical policy in appealing to the Italian people over the head of their government in the Fiume question.

Relations with Colleagues of the Diplomatic Corps—The Diplomatic Corps comprises all the heads of missions with their attachés and secretaries. The oldest representative in length of service at the post who is of the highest category is the *doyen du corps*. He is the mouthpiece of his colleagues on public occasions and defender of their privileges at the capital where they are accredited. However, he may only represent his colleagues after having consulted them and secured their approval.

Maurice Francis Egan, formerly American Minister to Denmark, declares that the normal relationship of the envoy to the diplomatic corps is somewhat of a family relationship. "In any foreign city, it is as a group rather isolated. There are certain social conventions which hedge it about, and while one may choose one's friends and associates as one pleases, the corps in itself is very critical as to the fitness of these friends and associates; the instructions from every foreign office are always to the effect that an envoy and his wife are expected to cultivate the good will of their colleagues." ¹⁵

Negotiation of Treaties—Formerly the making of political treaties was an important function in a diplomat's work, but today

¹⁴ David R. Francis, *Russia from the American Embassy* (New York, 1921), 232

¹⁵ Maurice F. Egan, *Recollections of a Happy Life* (New York, 1924), 250.

if the treaty be a very important political document the State Department guides every step or a special commission is sent to negotiate the treaty. One can hardly imagine treaties as important as those signed by Caleb Cushing with China, or by Commodore Perry or Townsend Harris with Japan, or even the very irregular treaty of Guadalupe Hidalgo negotiated by Nicholas Trist after his recall, signed by a single diplomatic agent on his own responsibility today. The negotiation and signing of the Treaty of Trianon with Hungary by the United States Ambassador to France, Hugh Wallace, in 1920, and of the American Treaty of Lausanne with Turkey by the United States Minister to Switzerland, Joseph Clark Grew, in 1923 might be regarded as exceptional examples. Mr Wallace's rôle was due to the departure of the American Peace Commission. Mr. Grew was a career diplomat of long experience who had just acted as observer during the negotiations of the Allies at Lausanne. And even in this case, Minister Grew was in constant touch with Secretary Hughes and the Near East Division of the State Department. On the other hand, with the increase of non-political treaties, the diplomat is often called upon to work out bilateral agreements on various social, economic and technical matters.

The United States gives very specific instructions to its diplomatic representatives with respect to the negotiation of bilateral treaties.¹⁶ If a treaty is to be negotiated by an American diplomatic agent he is furnished with the full power of the President authorizing him to negotiate, conclude and sign the contemplated agreement. If the proposal originates with the United States its envoy is furnished a tentative draft of the proposed treaty to be submitted to the other government for its consideration. Any modifications or counter proposals must be submitted by the representative to the Department of State. If the proposal originates with the other government, the envoy forwards the draft to the Department and awaits instructions. The diplomatic representative will only sign a treaty when so advised by the Department.

When signing has been agreed upon two originals are prepared for each government. The principle of the alternat is carefully observed. When English and another language are employed the text in both languages is printed in parallel columns of the same

¹⁶ *Instructions, op. cit.*, IX.

page or on opposite pages of the same sheet. Each government retains the original in which its language appears in the left-hand column or page. In the same way each government retains the original where the name of the country and its plenipotentiary appear above that of the other. Before signing, the diplomatic representative must be certain that the texts in both languages in the treaty conform exactly to those of the drafts, that the idea conveyed by the foreign text accords with that of the English text, and that the punctuation is the same.

Full powers may be either exhibited or exchanged by the plenipotentiaries at the time of signature as the foreign government may prefer. At Washington the custom is merely to exhibit them.

After the treaty is signed the diplomatic representative should forward the original to the Secretary of State. Since all treaties signed on the part of the United States must be approved by the Senate before ratification, the United States prefers that the treaty provide that exchange of ratifications shall be effected "as soon as possible", rather than within a specified time. Exchange of ratifications is effected by a mutual exchange of ratified copies by plenipotentiaries of the two governments. A protocol signed in duplicate by both plenipotentiaries in the alternate form attests the exchange. The American agent should then immediately cable the date of exchange and the date of the instrument of ratification of the foreign government so that the treaty may be promptly proclaimed by the President. The instrument of ratification of the foreign government and a copy of the signed protocol are forwarded by the first following mail.

Participation in International Conferences—The development of the international conference has increased the opportunity of the diplomatic representative to meet with his colleagues from other capitals in drawing up multipartite international conventions on a great variety of subjects. In the various conferences on the limitation of armament in the post-War period numerous diplomats have participated as delegates. At the Washington Conference for the Limitation of Armament held in 1921 Belgium, Great Britain, France, Italy, Japan, China, the Netherlands, and Portugal were all represented by their diplomatic envoys at Washington as well

as by additional plenipotentiaries. The United States has also utilized diplomatic envoys to serve as unofficial observers at a number of international conferences of the post-War period. Joseph Clark Grew was utilized by President Wilson to organize data for the delegates at the Peace Conference in Paris and became later supervisor-director of the secretarial staff at the Peace Conference. He served with Ambassador Child at the first Lausanne Conference as an unofficial observer when the Allies were endeavoring to make peace with Turkey and he headed the American delegation at the second Lausanne Conference to negotiate and sign a treaty of amity and commerce with Turkey on the part of the United States.

Richard Washburn Child declared that he attended the Conference of Genoa "not as a member of the conference officially or unofficially but merely as ambassador to Italy interested in the international conference attended by more nations than any other in history".¹⁷

Ambassador Hugh Gibson was constantly utilized by Presidents Coolidge and Hoover to attend international conferences as a representative of the United States. He served as chairman of the American delegation at the Conference for the Supervision of International Trade in Arms. He attended the various sessions of the Preparatory Commission for the Geneva Disarmament Conference and then served as a delegate when the General Conference was called. This was said to be the first occasion since the Peace Conference when an American representative other than an "unofficial observer" attended an international conference in Europe. Gibson acted as chairman of the American delegation at the Limitation of Naval Armaments Conference in Geneva in 1927 and as a delegate to the London Naval Conference of 1930. He also served as observer at the conference of experts for a moratorium on international debts in London in 1931.

Protection of Citizens of Third Powers—Among the functions which a diplomatic representative is sometimes called upon to perform is the protection of citizens of third powers. Usually this is a purely temporary arrangement where the nationals' gov-

¹⁷ Richard Washburn Child, *A Diplomat Looks at Europe* (New York, 1925), 4.

ernment has no diplomatic representative, but there have been occasions when the arrangement has continued over a fairly long period of time. For example, John W. Foster, United States Minister to Mexico after the downfall of Maximilian, unofficially exercised his good offices with the Mexican government for eight different European countries. The British residents regarded him as their *de facto* minister, and the London Foreign Office frequently expressed its appreciation for his services.¹⁸

The United States has from time to time permitted its diplomatic representatives at the request of friendly Powers and with the consent of the jurisdictional government to represent these Powers at such places as the Powers requesting have no diplomatic representation. This authority is restricted to the granting of services or good offices of the representative to meet what is ordinarily a temporary exigency of the friendly government. These services are performed after the consent of the jurisdictional government has been obtained and under instructions from the Department of State. In performing such offices the diplomatic officer serves as the agent of the foreign government, responsible to it for the duties which may be performed and that government alone is responsible for his acts. By a Constitutional provision he is prohibited from becoming a diplomatic or consular officer of the foreign government.¹⁹

In 1854 at the request of a Mexican citizen in Peru for protection, the American minister, Mr. J. Randolph Clay, inquired how far United States representatives should extend their good offices in behalf of foreigners whose governments had no diplomatic or consular representation. Secretary of State Marcy replied: "Any good offices which a minister may undertake must be entirely of a personal character, or such as may be demanded by humanity or the pressing urgency of the case. . . ." ²⁰

The United States for a number of years authorized its diplomatic representatives to use their good offices in behalf of Swiss citizens in countries where the Swiss government was not represented. Such services included the presentation of claims, the pro-

¹⁸ John W. Foster, *Diplomatic Memoirs* (New York, 1909), I, 31.

¹⁹ *Instructions to Diplomatic Officers of the United States* (Washington, 1927), VIII, 18.

²⁰ Moore, *op. cit.*, IV, 585.

tection of Swiss citizens from violence, and the use of good offices in behalf of Swiss citizens called for military service abroad.²¹

Care of Foreign Legations—The commonest examples of such good offices occur in periods of severed diplomatic relations or war. In such cases the diplomatic envoy is asked to protect in the state to which he is accredited the interests of nationals of the power whose diplomatic representative has been withdrawn. Under such circumstances the neutral diplomatic officer may be expected to aid in facilitating the departure of the diplomatic and consular representatives of the belligerent state and its nationals domiciled in the country to which he is accredited. Quite commonly he takes over the embassy or legation, guards its archives and performs such functions as are essentially protective in character.

At the outbreak of the Franco-Prussian War in 1870 the American minister to Paris, Mr. Elihu B. Washburne, was the only representative of a great power who remained in Paris. At the request of the German ambassador to Paris and with the authorization of the State Department he took over the German embassy and raised the American flag over it. He agreed to protect the interests of the subjects of the North German Confederation and of the South German States. There were about 30,000 Germans in Paris and as the French refused to allow those of military age to depart and as feeling ran high against all Germans his problem of repatriating some and protecting others was not an easy one. He distributed money sent by Germans to their interned relatives and friends and he served as a means of communication between Germany and France. According to Minister Washburne, "When Bismarck wished to send a memorandum to the French government he would address it to Count Bernsdorff, the German ambassador in London, who communicated it to Mr. Motley, United States minister in London, who in turn sent it to Mr. Washburne, who turned it over to the French Minister of Foreign Affairs."²²

Before the entrance of the United States into the World War

²¹ Moore, *op. cit.*, IV, 585.

²² Elihu B. Washburne, *Recollections of a Minister to France* (New York, 1889), I, 39-54, 96.

American diplomatic representatives in Europe were called upon to represent many of the belligerent powers at the various capitals.²³ Ambassador Gerard in Berlin for example took over the British, Japanese, Serbian, and Rumanian interests. He was also instrumental in aiding the Russian ambassador to leave Berlin by sending him the American embassy's chauffeur and footman. The representation of British interests involved our embassy in a number of complex and delicate problems and imposed upon the staff a vast amount of arduous and exhausting labor. The responsibilities assumed included the inspection of prison camps, the keeping of records of all British civilians and prisoners of war in Germany, the relief of interned civilians—a member of the embassy went twice a week to the great civilian internment camp at Ruhleben where 5,000 British were interned—the administration of funds involving millions of dollars and the carrying on of diplomatic negotiations between the two governments. It has been said that never before in history has an equal or even comparable amount of labor and effort been exerted by the representatives of a neutral government in caring for the interests of one belligerent in the territory of another belligerent.²⁴

In somewhat similar fashion Ambassador Myron T. Herrick in France took over the German, Austro-Hungarian and Turkish interests in Paris. He, too, despite a greatly augmented staff had considerable additional labor imposed by the necessity of visiting and inspecting detention camps, hospitals and prisoners.²⁵ He wrote to his son on November 4, 1914, that he had sent 2,300 interns through the lines to Switzerland on a single day with more to follow.²⁶ When the French government moved to Bordeaux, Herrick decided to remain in Paris contrary to the regular rule because President Wilson appreciated the fact that Herrick would be of greater service in Paris. The result was still more work for the embassy since he was now requested to take over the interests

²³ For a complete account of the activities of the American legation in Belgium during the early years of the World War see Hugh Gibson, *A Journal from Our American Legation in Belgium* (New York, 1917).

²⁴ *House of Representatives Report No. 695, 65th Congress, 2nd Session, 2*. See also James W. Gerard, *My Four Years in Germany* (New York, 1917), and *Face to Face with Kaiserism* (New York, 1918).

²⁵ There were more than 100,000 Germans in France to be cared for. See Lee Meriwether, *The War Diary of a Diplomat* (New York, 1919), 170.

²⁶ T. Bentley Mott, *Myron T. Herrick, Friend of France* (New York, 1929), 193

of Great Britain, Japan and Serbia and others. Herrick remarked that with so many "interests" concentrated in his hands, Mr Kellogg intimated that the Attorney General might try to dissolve him on the ground of being a trust.²⁷

Exceptional Cases—The life of a diplomat is a most varied one, and the unusual is always cropping up. He is called upon one day to obtain permission for a student to work in the national archives and on the morrow he may be called upon to entertain royalty. When Queen Victoria died an American asked the American ambassador to obtain permission for him to embalm her body. In 1914 a fine looking American came into the American legation at Berne, Switzerland, asking for a passport, claiming that his had been burned in Belgium when his hotel was destroyed by the Germans. Although his recommendations were perfect he did not get the passport and it was learned later that he had been arrested and convicted as a spy.

Unfortunately for the diplomat the most important of his duties, the maintenance of cordial relations, is an intangible matter. No definite procedure can be outlined—the envoy must depend almost entirely upon his own wisdom and judgment. And if he is particularly successful in a delicate negotiation by the very nature of the case the details must remain secret or he may never be successful again. Therefore, as Jules Cambon has aptly remarked: "Les diplomates ne sont pas comme les militaires les enfants gâtés des historiens"; nevertheless, measured in terms of real value to their country, their influence is perhaps of even greater importance, inasmuch as it is exerted regularly and effectively in behalf of the maintenance of peace.

²⁷ Mott, *op. cit.*, 157.

CHAPTER XIII

DIPLOMATIC DUTIES

III. Social Functions

Social functions are necessarily a very important part of diplomatic life and the envoy's success or failure is sometimes dependent upon his ability to utilize effectively and intelligently the many social contacts which they afford. The American official instructions state that the diplomatic representative should omit no occasion to maintain the most friendly personal and social relations with the members of the government and of the diplomatic corps at the place of his residence.¹

Official Calls—The newly appointed diplomatic representative is supposed to make the first call on all of his colleagues of the same rank as himself and hold himself in readiness to respond to the requests of those of lower rank for appointments to pay their respects. The official calls take up considerable time in the larger capitals, but the clever envoy can utilize them to form an approximate idea of the milieu in which he is to function. The establishment of cordial relations with the other members of the diplomatic corps is oftentimes as important to the diplomat's political as it is to his social success.

In making the first official calls on his colleagues the ambassador begins with the dean of the diplomatic corps and then follows with the others in the order of their seniority at the post.² The new diplomatic representative writes to each colleague asking what would be a convenient hour for the presentation of his respects. After visiting all the ambassadors in turn the newcomer should be available to the various ministers so that they may pay their

¹ *Instructions to Diplomatic Officers of the United States* (March 8, 1927), II, 17.

² Ministers of a country which has just been accorded recognition are expected to call upon the representatives of the recognizing Powers.

respects. Robert Underwood Johnson, former American ambassador to Italy, points out that a clear line of distinction is drawn between embassies and legations in this social function. The minister makes the overture and must be personally received, but on returning his call the ambassador may either leave his card in person or go in for an interview. Mr. Johnson made it his custom to extend the full courtesy of a call, believing this additional consideration was appreciated and was of use to him in future relations with the ministers then in Rome.³

As a rule the diplomatic corps makes every effort to smooth the pathway of diplomacy for the neophyte. Andrew D. White, former American ambassador to Germany, noticed particularly the cordiality of his colleagues and of the ruling family. They all tried to begin a conversation agreeable to the newcomer. One would start a discussion on American shipping, another on American art, another on scenery in Colorado, another on American dentists, with Niagara to fall back upon if all other subjects failed.⁴

The Wife of the Ambassador—The ambassador's wife is also presented at court very soon after her husband's presentation, but in a much less ceremonious fashion. She makes the prescribed three curtseys in entering the queen's presence, but after that the audience is usually quite informal. Inasmuch as royalty terminates all interviews, oftentimes by an indirect signal, the visitor must be on the watch for it. The story is told that Lord Russell casually asked Prince Bismarck how he was able to keep bores from monopolizing his valuable time. He replied that he and the Princess had contrived an excellent method: whenever a person stayed too long, she would call to the Prince that he must come and take his medicine. Hardly had he finished describing the technique when, to the discomfiture of both guest and host, the Princess strolled into the room and remarked that the Prince's medicine was waiting.

After her visits to the court the ambadress, as she is sometimes called, must also make a round of official calls. Mrs. Child, wife of a former ambassador to Italy, thus describes the Italian procedure: "First of all I called upon the wife of the minister of

³ Robert Underwood Johnson, *Remembered Yesterdays* (Boston, 1923), 543.

⁴ *The Autobiography of Andrew D. White* (New York, 1905), 533.

foreign affairs and then in order of precedence upon the wives of the other ambassadors. The hours of all these visits were arranged by an interchange of formal notes as they were not an empty matter of leaving cards but were to serve the useful purpose of our becoming known to one another. Each of these calls was then returned, also by appointment." ⁵

The rôle played by the diplomatic representative's wife is a very important one and according to the late ambassador Walter H. Page the ambassador's wife in London is almost as important as the ambassador himself. There have been instances like that of the celebrated Madame de Lieven where the lady in her famous salons in London and Paris unofficially wielded far more influence than her husband in his chancery. Satow declares that if a diplomatist suggested for appointment is married, the social gifts, character, religion, past history or original nationality of his wife may be an important factor in the determination of his appointment.⁶ Bismarck expected any German diplomat to resign who married an American and when he offered the embassy at London to the Count von Hatzfeldt, it was on condition that he divorce his American wife. The Count refused but at his wife's insistence he agreed to a legal separation. Although Hatzfeldt served his country as a bachelor in London, he lived openly with his wife on their country estate. When his diplomatic career was over he remarried the Countess ⁷

The older authorities were not so certain as to the usefulness of ambassadors' wives. Charnoy in his volume *L'idée du parfait ambassadeur* even questions whether an ambassador should take his wife with him to a foreign post "The frailty and inconstancy attributed to the majority of women, their tendency to talk too much, the luxury and expense entailed by the lavish establishment which they require, raise the question as to whether it would not be better to leave them at home." On the other hand the same author shows us that it is possible for a wife to aid the ambassador greatly in his domestic affairs which the stress of official duties

⁵ Maude Parker Child, *The Social Side of Diplomatic Life* (Indianapolis, 1925), 36.

⁶ Ernest Satow, *A Guide to Diplomatic Practice*, 3rd ed. (London, 1932), 119.

⁷ Anonymous, *Intimacies of Court and Society by the Widow of an American Diplomat* (New York, 1912), 181.

may otherwise cause him to neglect. She may even contribute to the intellectual and social brilliance of the embassy by attracting people of distinction through her personality and charm.⁸

Pradier-Fodéré writing at a considerably later period concedes that the wife of a diplomat can aid in a very unique way her husband's social prestige, and indirectly his value to his government. "All men in political life need a salon, particularly a woman's salon because at such a place engagements are of less importance and interviews less compromising. To visit an ambassador may be considered a *démarche*, to visit his wife is merely an act of courtesy. In this way an interview may be had very simply, the wife may serve as go between and without the slightest responsibility each may make his proposition and reply. . . ."⁹

Ambassador Page gives an excellent example of such an occasion. A certain woman, well known for her activities in behalf of Anglo-American friendship, called upon Mrs. Page and in the course of the visit informed her that unless the activities of certain British commercial interests were checked a serious situation might arise between Great Britain and the United States. Mrs. Page made a memorandum and gave it to the ambassador. Ambassador Page sent it to President Wilson who thereupon took steps to put an end to the Cowdray machinations.¹⁰

Madame Jusserand, wife of the French ambassador in Washington for so many years, was noted for her tact and finesse in meeting any sort of problem. Maurice Francis Egan goes so far as to declare that no diplomatic lady at any capital ever achieved a greater position than did Madame Jusserand at Washington.¹¹

Sometimes, however, wives of diplomats are likely to act in a very undiplomatic fashion. Norval Richardson, formerly secretary at the American embassy in Rome, tells that when the first Italian soldiers were leaving for the front he was sent by the American ambassador to warn his wife that it was Italy, not the United States, that had declared war. As the Ambassador had feared, his wife was found waving the American flag and throwing roses at

⁸ Rousseau de Charnoy, *L'idée du parfait ambassadeur*, L. Delavaud, ed. (Paris, 1912), 29.

⁹ P. Pradier-Fodéré, *Cours de droit diplomatique* (Paris, 1899), I, 389-90.

¹⁰ Burton J. Hendrick, *Life and Letters of Walter H. Page* (New York, 1923), I, 190.

¹¹ Maurice Francis Egan, *Recollections of a Happy Life* (New York, 1924), 195.

the soldiers. When Richardson informed her that the United States was still neutral she gave him a scornful look and replied "The ambassador may pretend to be neutral—the United States may be neutral—but I want the whole world to know that I am not." Thereupon she waved the flag with renewed enthusiasm as she shouted, "Viva Italia!"¹²

Social Life—It has already been made clear how important is the social life of the foreign representative. Szilassy gives some excellent advice on this subject. In the first place the envoy must establish cordial relations with his countrymen residing in the country to which he is accredited. As a general rule the envoy should be particularly careful to treat his compatriots on a basis of complete equality. Periodically he should entertain at luncheon or dinner those whom he considers to be worthy of this consideration and he will also do well to invite at least once a year the entire colony. It goes without saying that he must entertain outstanding notables from home and his colleagues at other posts when they pass through the capital where he is stationed. At his first official reception or recivimento General Porter, former American minister to France, invited not only all the high dignitaries on the list furnished by the Protocol, but in addition some two hundred Americans of note then resident in Paris, making a total of about fifteen hundred. Ambassador Myron T. Herrick regularly invited the entire American colony in Paris to his Fourth of July receptions, where an excellent buffet with champagne was served to all.

The envoy must also entertain for various groups of people in the country to which he is accredited, such as members of the government, outstanding industrialists interested in his country's trade, professional people of influence, and always in such a way as to avoid any jealousies or animosities.

Besides entertaining he must make calls in return, accept invitations to dinner, frequent certain salons and make himself an integral part of the life of the capital. It was Ambassador Dawes who when returning from a prolonged official reception was asked why he limped; he replied, "Diplomacy is not too hard on the brain, but it's hell on the feet."¹³ When Ambassador Fletcher heard this

¹² Norval Richardson, *My Diplomatic Education* (New York, 1929), 150.

¹³ Paul R. Leach, *That Man Dawes* (Chicago, 1930), 325.

anecdote he is said to have remarked, "It depends upon which end you make use of most"

Diplomatic Uniforms—Before concluding this subject of social functions a word must be said regarding diplomatic costumes. Diplomatic ceremonial occasions have always been noted for the brilliant and elaborate costumes and dress worn by the foreign representatives. Although the United States for over a century appointed no representative higher than a minister plenipotentiary, no objection was raised in the early days of American diplomacy to the wearing of an elaborate diplomatic uniform. A State Department circular of 1817 prescribed a costume consisting of a blue coat lined with white silk, a gold embroidered cape, white cassimere breeches with gold knee buckles, white silk stockings and gold or gilt shoe buckles. A three cornered hat with a black cockade and a sword completed the costume.

Secretary of State Van Buren during the super-democratic administration of President Jackson suggested that a black coat with a gold star on each side of the collar "the underclothes to be black, blue or white at the option of the wearer", a three cornered hat and a sword with a white scabbard would be cheap and adapted to the simplicity of our institutions.¹⁴

Secretary Marcy in a famous circular dated June 1, 1853, urged the American diplomat to show his sense of devotion to republican institutions by appearing at court in the simple dress of an American citizen. If occasions arose when such a costume seemed inadvisable the envoy was expected to wear a costume with the minimum of elegance to suit the occasion.¹⁵ Townsend Harris on his mission to Japan in 1857 completely disregarded the suggestion and arrayed himself and his cohorts in finery almost Oriental in its lavishness.

Inasmuch as the ordinary evening dress of an American citizen was exactly the same as the regular habiliments of waiters and servants, to many Europeans the regulation seemed ridiculous in the extreme. The American minister to Great Britain, Mr. Buchanan, stayed away from the opening of Parliament in 1854 because no one was admitted unless in full court dress. Mr. Buchanan

¹⁴ Moore, *op. cit.*, IV, 761.

¹⁵ *Ibid.*, 762.

finally compromised by wearing a sword with his evening suit of black to the Queen's levee, a costume which was recognized as appropriate.

At the same time the American minister at Paris, Mr. Mason, decided that a uniform of simple character was desirable for ceremonial functions, but the secretary of the legation, Mr. Sanford, who, as chargé d'affaires, had worn a regulation American evening dress suit, resigned in high dudgeon at his superior's willingness to wear a "diplomatic livery." In Stockholm the King was willing to receive Mr. Shroeder in plain dress for diplomatic business but court occasions required court dress. Mr. Vroom at Berlin was informed that the Emperor would consider an appearance before him without court regalia as disrespectful so he adopted a fairly elegant costume. The American minister at Vienna wore his uniform as a colonel.

The matter caused so much discussion that the Senate took up the question and debated it at length. The result was a joint resolution of the Congress passed March 27, 1867, which "prohibited persons in the diplomatic service of the United States from wearing any uniform or official costume not previously authorized by Congress". Inasmuch as Congress had already permitted army and navy officers to wear their uniforms, diplomatic envoys and had served in the fighting services could wear their accustomed forms.¹⁶

The question of dress came up with Mr. Washburne, Minister to France, on the occasion of the opening of the Corps Legislatif, November 29, 1869, which was regarded as one of the most colorful of French ceremonial occasions. Washburne noted the situation in his memoirs. "The diplomatic corps was present in full numbers, and all glittering in uniform and tinsel except myself. Congress had very wisely prohibited its diplomats from indulging in the nonsense and flummery of court dress. I did not see but that, in my plain suit of black, I got along as well as any of the others" ¹⁷

¹⁶ This subject is elaborately covered in *Senate Executive Document No. 31, 36th Congress, 1st Sess* (April 2, 1860) and in John Bassett Moore, *Digest of International Law*, IV, 761-773. See also Eugene Schuyler, *American Diplomacy* (New York, 1895), 139-145, and John W. Foster, *The Practice of Diplomacy* (New York, 1906), 130-141.

¹⁷ Elihu B. Washburne, *Recollections of a Minister to France* (New York, 1889), I, 20.

Other American representatives, however, have felt otherwise about the regulation. Eugene Schuyler, finding himself the only black-coated person at the ceremony when the Grand Duke Alexis of Russia took the oath of allegiance, felt very awkward and found the law requiring an American representative to appear in the costume of a waiter foolish and ridiculous.¹⁸

Ambassador Choate is said to have remarked to Whitelaw Reid while they were standing in court queue: "At a court this republican simplicity dodge of ours about plain clothes is the most impertinent piece of swagger in the world . . . not one human being in the room fails to notice the conspicuous character of their dress or to know that they are the modest and retiring American ambassador." ¹⁹

George Horton, for many years consul general of the United States, tells of a touchy, pompous American minister who was approached by a lady at a social function with the query, "I beg pardon, but are you the butler?" "No, madame," he snapped at her, "are you the chambermaid?" ²⁰

The instructions to American diplomatic officers simply state that "officers of the several grades in the diplomatic service of the United States are instructed to conform to the requirements of law prohibiting them from wearing any uniform or official costume not previously authorized by Congress." ²¹ Nevertheless, the American foreign envoy has been permitted a certain degree of latitude in his attire. Secretary Olney in 1896 instructed Mr. Breckinridge, American minister to Russia, that he might conform to local requirements and wear the prescribed costume appropriate to the occasion.²² Three years later Mr. Adee, Assistant Secretary of State, noted the distinction which the Department of State made between a uniform and a court dress conforming to local custom. The latter was regarded as not obnoxious to the statutory prohibition.²³ A diplomatic envoy affiliated with a recognized military or naval organization is permitted to wear the uniform of that group

¹⁸ Eugene Schuyler, *Essays and Memoirs* (New York, 1901), 34.

¹⁹ Royal Cortissoz, *Life of Whitelaw Reid* (New York, 1921), II, 351.

²⁰ George Horton, *Recollections Grave and Gay* (Indianapolis, 1927), 74.

²¹ *Instructions, op. cit.*, XVI, 2.

²² Moore, *op. cit.*, IV, 771.

²³ Moore, *op. cit.*, IV, 772.

At the present time the Court of St. James's is one of the few diplomatic posts where some sort of court costume is *de rigueur*. The late Ambassador Walter H. Page notes the fact that at a King's levee "if you are not entitled to wear a uniform you have a dark suit, knee breeches, and a funny little sword." George Harvey was much ridiculed in the American press for wearing court dress on ceremonial occasions. Ambassador Dawes, who seemed possessed with the idea that to be himself he had to be different from everyone else, appeared at court in plain evening clothes, instead of knee breeches. A special dispensation is said to have been made for him in the matter of dress, but not at his solicitation.²⁴

The American regulations regarding diplomatic uniforms are now so well known that although the American representative may be somewhat conspicuous in his simple black evening dress—"a crow in a flock of parrots"—nevertheless he is wearing the costume specified and need not worry further about it. Andrew D. White whose diplomatic career was long and distinguished was inclined to regard the whole question as of little importance. In his autobiography he frankly confesses that "having never worn anything save plain evening dress at any court to which I have been accredited, or at any function which I have attended, I have never been able to discover the slightest disadvantage to my country or myself from that fact."²⁵ Perhaps one may agree with Talleyrand who when he saw Castlereagh at Vienna wearing his ordinary dress-coat with the Order of the Garter among the resplendently attired ambassadors bedecked with insignia and decorations exclaimed: "Ma foi! C'est distingué."

Decorations, Presents and Honors—The Constitution of the United States specifically forbids any employee of the Federal government from accepting any presents, offices or titles of any kind from any foreign state without the consent of Congress. John Quincy Adams, after having refused the usual present for ministers valued at four hundred pounds sterling given by the British government at the termination of his mission expressed his approval of the American practice first because of the possibilities of corruption and secondly because the United States would not

²⁴ Paul R. Leach, *That Man Dawes* (Chicago, 1930), 316.

²⁵ *Autobiography of Andrew D. White* (New York, 1905), II, 371.

reciprocate. "For American ministers to be receiving gifts from foreign powers whose diplomatic agents in America never receive anything in return would exhibit them rather as beggars receiving alms from opulent princes than as the independent representatives of a high minded and virtuous republic."²⁶

The official instructions forbid diplomatic officers "to ask or accept for themselves or any other person, any present, emolument, pecuniary favor, office or title of any kind. . . ." ²⁷ Nevertheless, if presents or testimonials are tendered in acknowledgment of services, the envoy may apply to Congress for permission to accept them.

The Congress of the United States has been very loath to grant the necessary permission and it was not until 1856 that several naval officers were permitted by a special act of Congress to receive gold medals for exceptional services. In December, 1874, for example, the Germans wished to give the American Minister to France, Mr. Elihu Washburne, some testimonial in recognition of his services to Germany during the Franco-Prussian War. Congress would not permit him to receive such a gift, so Washburne received the appreciation expressed in a letter from the Emperor. After his term of office, however, Emperor William of Germany caused a full-length portrait to be painted for Washburne and sent it to the German consul at Southampton to be presented to the minister on his way home when he was out of office. Similar portraits were received by Washburne from Bismarck, Thiers, Gambetta and Lord Lyons, the British Ambassador at Paris.

By an act of Congress approved January 31, 1881, Congress authorized eight American officials of whom all but two were army or navy officers to accept decorations from various governments and sovereigns. The act further provided that "any present, decoration, or other thing which shall be offered or presented by any foreign government to any officer of the United States, civil, naval or military, shall be tendered through the Department of State and not to the individual in person, but such present, decoration or other thing, shall not be delivered by the Department of State unless so authorized by act of Congress."²⁸

²⁶ John Quincy Adams, *Memoirs* (Philadelphia, 1875), III, 527.

²⁷ *Instructions, op. cit.*, XV, 4.

²⁸ 21 *U. S. Statutes at Large*, 603.

Prior to 1918 the Department of State had recommended to Congress some two hundred cases, so few of which were approved that the Department finally adopted the policy of merely submitting such cases to Congress through the President without recommendation. The World War, however, brought about a new situation and by an act of Congress of July 9, 1918,²⁹ officers of the army and navy were permitted to accept decorations from allied powers similar to those conferred by the government of the United States upon its own members. The United States reciprocated in that numerous foreign officers were honored by being awarded the distinguished service medal of the United States.

An interesting case was presented to Congress in 1918 when the British government presented a piece of silver plate to each of the twenty-two members of the American embassy in Berlin in grateful recognition of the work which they had done in protecting British interests for over two years or until the United States entered the war.³⁰ The gifts consisted of cups, centerpieces, inkstands and picture frames and ranged in value from about \$15 to \$100. In his letter to the chairman of the House Committee on Foreign Affairs Secretary of State Lansing indorsed the bill as an exceptional case because of existing conditions and the humane, meritorious and laborious services rendered by the staff of the embassy at Berlin in looking after British prisoners of war and otherwise representing British interests in Germany. He also felt that we should recognize the spirit of gratitude which induced the British government to offer this plate and that it would be an act of international comity to permit its acceptance. The Congress after debate consented.

In the same way the British government wished to show its gratitude to Ambassador Herrick in France for the protection accorded after the French government and British embassy had left Paris early in the War, and sent on to his home in Cleveland a piece of old English silver plate. The French government bestowed upon Mr. Herrick the Grand Cross of the Legion of Honor, its highest distinction,³¹ and the city of Paris bestowed upon him a

²⁹ 40 *U. S. Statutes at Large*, 872.

³⁰ 40 *U. S. Statutes at Large*, 1326

³¹ T. Bentley Mott, *Myron T. Herrick, Friend of France* (New York, 1929),

gold medal.⁸² As Mr. Herrick had already returned to private life, no action of Congress was necessary.

In fact, many an American representative unable to accept a token of appreciation from a foreign government while in office has with perfect propriety received the gift or decoration after retiring from public service. When Benjamin Franklin resigned as Minister to France in 1785, the King, in honor of his remarkable services and as a token of his personal affection for Franklin, presented him with his portrait circled twice with 408 diamonds. Governor Andrew Gregg Curtin, former American minister to Russia, was unable to accept the portrait of the Emperor at the close of his mission, but later the Emperor's portrait as well as one of Prince Gortschakoff were forwarded to America and hung in Governor Curtin's home.⁸³ In the same way, the Grand Cordon of SS. Maurice and Lazare was received by Ambassador Draper from the King of Italy after his resignation.⁸⁴ At the close of his mission to France in 1905 Ambassador Porter had conferred upon him the Grand Cross of the Legion of Honor. The French government offered to bestow at the same time a similar honor upon Secretary of State Hay. An Act of Congress was necessary in the second instance, and a resolution to this effect was introduced. However, when strong Senatorial objection was manifested Secretary Hay requested that the resolution be withdrawn.⁸⁵

American diplomatic representatives have had honors conferred upon them of a different character which clearly do not come within the Constitutional prohibition. For example, American diplomatic representatives to Great Britain Lowell, Choate and Page were chosen as presidents of the Birmingham and Midland Institute, an unofficial but very outstanding honor. Ambassador Choate was the first non-British subject ever to be made an honorary bencher of the Honorable Society of the Middle Temple. Ambassador Davis was later given the same recognition. Ambassador Davis was also made Senior Warden of the Grand Lodge of

⁸² Mott, *op cit*, 253

⁸³ William H. Egle, ed., *Andrew Gregg Curtin: His Life and Services* (New York, 1896), 65-68.

⁸⁴ William F. Draper, *Recollections of a Varied Career* (New York, 1908), 330.

⁸⁵ Elsie Porter Mende, *An American Soldier and Diplomat* (New York, 1927), 289

Freemasons of England, a unique distinction never before conferred upon a foreigner.³⁶

When Whitelaw Reid was ambassador to Great Britain Mr. Gladstone inquired as to what honors the United States conferred upon its citizens as a reward for distinguished public service. Reid was at first somewhat at a loss to reply. He finally answered: "There are only three things we can do. If they live at the North, we can invite them to lecture; if they live at the South, we can call them Colonel or General; wherever they live, if they can get votes enough we can send them to Congress and let them take the consequences."³⁷

³⁶ Theodore H. Huntley, *John W. Davis* (New York, 1924), 117.

³⁷ Cortissoz, *op. cit.*, II, 334.

CHAPTER XIV

DIPLOMATIC RIGHTS AND PRIVILEGES

Legal Basis of Diplomatic Privileges—We have already seen in a previous chapter that diplomatic privileges and immunities are among the oldest examples of customary international law. Both in ancient times and in the dark ages the sacred and inviolable character of the ambassador was everywhere recognized. In fact, so well have these principles been established that states have not always regarded it as necessary to reassert them in conventional law. Nevertheless treaties dating back as far as the seventeenth century have certain provisions relating to diplomatic privileges and immunities. For example, a treaty of peace, friendship and commerce concluded between James I of England and Michel Feodorowitz, Grand Duke of Russia in 1623, provided for certain diplomatic privileges and immunities.¹ Subsequent treaties between Great Britain and Denmark in 1670,² Great Britain and Portugal³ in 1809, and Great Britain and Turkey also in 1809⁴ have somewhat similar provisions.

A number of states have also passed municipal laws providing that any act against a diplomatic agent was punishable as a criminal offense. According to Wicquefort, the Netherlands in 1651 promulgated a law which forbade anyone from offending, damaging or injuring by words, by act or by appearance ambassadors, ministers or other diplomatic agents of kings, princes, republics or anyone else having the quality of public minister.⁵

England in 1708 voted the Act of 7 Anne for the protection of the privileges of ambassadors and other envoys of princes and of

¹ J. Dumont, *Corps universel diplomatique du droit des gens*, Amsterdam (1726-31), V, Pt. II, 436

² *Ibid.*, VII, Pt. I, 132.

³ Sir E. Hertlet, *Commercial Treaties*, 30 vols. (London, 1820-1925), II, 27.

⁴ *Ibid.*, II, 371.

⁵ A de Wicquefort, *L'ambassadeur et ses fonctions* (London, 1840), I, sect. 2.

foreign states.⁶ The laws of the United States declare that every person who "assaults, strikes, wounds, imprisons, or in any other manner offers violence to the person of a public minister in violation of the law of nations shall be imprisoned for not more than three years and fined at the discretion of the court."⁷

Certain states, particularly those which have codes based upon the Napoleonic Code, have accepted the principle that diplomatic immunities are regulated by international law and consequently have not sought to regulate the question by municipal legislation. A law of Haiti states that diplomatic agents are governed by international law, the customs of states and by political treaties.⁸

Status While en Route through Third States—Inasmuch as a diplomatic agent proceeding to his post often finds it necessary to cross the territory of a third state, certain principles have been advanced as to his status, although authorities still differ as to just how far his privileges and immunities extend. Most of the classic writers, including Grotius, Bynkershoek, Gentilis and Zouche, were inclined to restrict an ambassador's privileges to the state to which he was accredited. As Gentilis puts it, "from their very name, the function of ambassadors is limited to those to whom they are sent. Among others they are not entitled to the rights of embassy."⁹ More recently Baron Heyking takes the same position. "In the absence of a special arrangement to the contrary . . . the state which permits passage enjoys with regard to the ambassador all the rights which it may possess against a private person."¹⁰

The weight of modern authority, however, is inclined to grant the envoy a right of innocent passage "through all states friendly to his own country and to the honors and protection which nations reciprocally owe to each other's diplomatic agents . . . and any insult or injury to him is regarded as an insult or injury both to the state which sends him and that to which he is sent."¹¹

⁶ *British and Foreign State Papers*, I, 993

⁷ *Revised Statutes of the United States*, par 4062

⁸ See Cecil Hurst, "Les immunités diplomatiques," *Académie de Droit International, Recueil des Cours*, XII, 137

⁹ Alberico Gentili, "De Legationibus" (*Libri Tres*), *Classics of International Law*, No. 12 (Oxford, 1924), II, 62

¹⁰ A. Heyking, "L'Exterritorialité," *Académie de Droit International, Recueil des Cours*, VII, 266

¹¹ H. W. Halleck, *International Law*, 2 vols. (London, 1908), I, 389.

Wheaton, Wharton, Rivier, Satow, Pradier-Fodéré, Fauchille, and Genet take this view. The Superior Court of New York in 1839 and again in 1889 set aside summons against diplomatic envoys passing through on the way to their posts.¹² When a head tax was imposed upon the Japanese chargé d'affaires in Mexico by administrative officials of the United States as he was returning to his country via El Paso and San Francisco the Secretary of Commerce and Labor of the United States declared that "the action of administrative officers in collecting a head tax on account of the diplomatic and consular officers of foreign countries seeking admission into the United States was in error."¹³ Finally the Convention on Diplomatic Officers adopted by the American states at Havana in 1928 provides:

Persons belonging to the mission shall also enjoy the same immunities and prerogatives in the States which they cross to arrive at their post or to return to their own country, or in a State where they may casually be during the exercise of their functions and to whose Government they have made known their position.¹⁴

An interesting case of opposition to the passage through an intervening state of an American diplomatic representative occurred in France during the régime of Emperor Napoleon III. Pierre Soulé, the American minister to Madrid, after attending a conference at Ostend arrived at Calais intending to return to his post via Paris. He was stopped there by a ministerial order and refused permission to proceed without the government's knowledge. Mr. Mason, American minister to France, protested and the French minister of foreign affairs declared the French government had no intention of preventing an American envoy from crossing French territory to go to his post and if Mr. Soulé were going directly to Madrid the route of France was open; if he intended to stop over in Paris, however, that privilege was not accorded. The United States was satisfied with the recognition of the right of its envoy to traverse France, but Soulé went back by way of Great

¹² Manley O. Hudson, *Cases and Other Material on International Law* (St. Paul, 1929), 854, James Brown Scott, *Cases on International Law*, 2nd ed. (St. Paul, 1922), 293.

¹³ *Foreign Relations of the United States*, 1903, 664.

¹⁴ *Sixth International Conference of American States: Final Act* (Havana, 1928), Article 23, "Convention on Diplomatic Officers."

Britain and Portugal. The reason for Napoleon's answer seems to have been that Mr. Soulé, a naturalized American of French birth, had made speeches against the government of Louis Napoleon and had fought a duel with the French ambassador at Madrid.¹⁵

The question has been raised as to whether a diplomatic agent may claim the same privileges and immunities from a third state if he is temporarily sojourning there for no reason connected with his official duties. In this instance it would appear that such privileges as might be accorded would be by comity rather than by law. For example, when divorce proceedings were instituted in Paris in 1910 against the secretary of the United States legation at Brussels, although the Paris court declared itself incompetent because the defendant had never been domiciled in France, nevertheless the court held that envoys could not claim immunity when a sojourn in third states had no connection with their official duties.¹⁶

In similar fashion the New York Superior Court in 1924 in the case of *Carbone v. Carbone* held that there was a clear distinction between immunity from civil process and immunity from arrest. The country of passage is only obligated not to restrain him from discharging his diplomatic function by restricting his personal liberty. Therefore a warrant for the arrest of the Panamanian attaché to Italy was annulled, but a motion to vacate the service of summons was denied.¹⁷

We have already mentioned the case of Madame Kollontay, the Russian ambassador to Mexico, who was refused innocent passage through the United States in 1926 by Secretary Kellogg because the United States at that time did not entertain diplomatic relations with the Soviet government.¹⁸

The instructions to American diplomatic officers note the fact that transit free of customs dues is usually conceded by a third state through whose territory a diplomatic representative passes on his way to or from his post. However, it is conceded that the

¹⁵ John Bassett Moore, *Digest of International Law* (Washington, 1906), IV, 557.

¹⁶ *Journal de Droit International, Clunet* (1910), 529.

¹⁷ Edwin DeWitt Dickinson, *Cases on the Law of Nations* (New York, 1929), 585.

¹⁸ *Department of State Press Release*, Washington, November 5, 1926.

status of the envoy in the third state "lacks the extra-territorial element of immunity belonging to him in the country to which he is accredited."¹⁹

Passage through Third States in Time of War—In time of war the question of innocent passage is somewhat more complex. Early in 1866 Mr. Charles A. Washburn, American minister to Paraguay, was prevented by Brazil and Argentina who were at the time at war with Paraguay from passing up the Parana River to reach his post at Asuncion. Secretary Seward protested vigorously to both Argentina and Brazil and they finally gave the necessary orders although under protest. A year later when an American naval vessel was sent to convey Mr. Washburn and his family back to the United States, permission was again refused and it was only when Mr. Webb, the American minister to Brazil, threatened to ask for his passport that the American public vessel was permitted to carry out the mission.²⁰

At the outbreak of the World War when Mr. Dumba, Austrian ambassador to the United States, and Captains Boy-Ed and von Papen, German military and naval attachés, were recalled at the request of the United States they were granted safe conducts by the Allied Powers at the request of the United States. In the same way, when the United States entered the war, Count Bernsdorff, German ambassador to the United States, was granted safe conduct by the Allies for his return to Germany at the request of the United States.²¹ On the other hand, when Count Tarnowski was appointed to succeed Dumba as ambassador to Washington, the British government refused him a safe conduct on the ground that his predecessor had plotted against the Allies. The United States protested on the ground that sovereign states possessed an inalienable right to exchange ambassadors and that third states, even in time of war, were not justified in denying it. The United States won its contention.²²

¹⁹ *Instructions to Diplomatic Officers of the United States* (Washington, 1927), VII-13.

²⁰ Graham H. Stuart, *Latin America and the United States* (New York, 1928), 436.

²¹ J. W. Garner, *International Law and the World War* (London, 1920), I, 45.

²² Charles G. Fenwick, *International Law*, 2nd ed. (New York, 1934), 378.

The Beginning of Diplomatic Privileges—Authorities still differ as to the exact time when diplomatic privileges and immunities begin. Some claim that they begin once the person nominated has been accepted by the receiving state. Others would wait until the formal reception was held by the receiving state. Still others date the operation from the moment the envoy enters the territory of the receiving state. The latter view would seem to be the most reasonable and it has been sanctioned both by law and by treaty. The Panamanian law of 1925 (Article 44) declares that "the inviolability of diplomatic agents and their exemption from local jurisdiction commences from the moment of entry at the frontiers of the state. . . ." ²³ Paraguay follows the same rule.²⁴ The Havana Convention on Diplomatic Officers of 1928 declares: "Diplomatic officers enter upon the enjoyment of their immunity from the moment they pass the frontier of the State where they are going to serve and make known their position." ²⁵

Exemption from Customs Duties—Among the privileges generally accorded to a diplomatic envoy by comity rather than by law is that of exemption from customs duties. Vattel did not feel that a public minister deserved any consideration of this sort inasmuch as the payment of duties in no way interfered with the performance of his official functions. Even Vattel, however, conceded that "the independence of the ambassador exempts him from all personal or capitation taxes and other assessments of that character." ²⁶ Nevertheless, at the present time it is a common usage of international intercourse that a diplomat be given the privilege of importing without the payment of duties all articles for his official or personal use and at the same time he is exempt from income or other personal and sumptuary taxes.

The instructions to diplomatic officers of the United States on the subject are as follows:

It is a common usage of intercourse that to a diplomatic representative shall be conceded the privilege of importation of effects for

²³ A. H. Feller and Manley O. Hudson, *Diplomatic and Consular Laws and Regulations* (Washington, 1933), II, 942

²⁴ *Ibid.*, II, 956

²⁵ *Sixth International Conference of American States, op cit*, Article 22

²⁶ E. de Vattel, "Law of Nations," *Classics of International Law* (Washington, 1916), III, 385

his personal or official use, or for the use of his immediate family, without payment of customs duties thereon. The application of this privilege varies in different countries, and in some is restricted to the chief of mission. It is the duty of the representative to acquaint himself with the formalities and limitations prescribed in such case by the local law or regulations and to conform therewith. The privilege is one of usage and tradition, rather than of inherent right. The practice of the Government of the United States is to accord such privileges to chiefs of mission, and on a reciprocal basis to members of their staffs. In the case of mail parcels, sealed or unsealed, addressed to a member of the family of the chief of mission, members of the diplomatic staff or their families, customs inspection is insisted on, even where admission is granted free of duty.²⁷

The laws of the following countries specifically provide for the exemption of diplomatic envoys from tariff duties: Austria, Belgium, France, Germany, Great Britain, Italy, the Netherlands, the Union of Soviet Socialist Republics, Spain, and the United States.²⁸ It should be noted that such privileges are regularly upon a reciprocity basis. Some states limit the exemption to the heads of mission alone. Others extend the exemption to members of the mission personnel. Some states grant exemption only during the first year of residence. Great Britain limits the amount of wines, spirits, and tobacco while Italy restricts the number of cigars and cigarettes which may be entered free of duty.

If by chance the customs agents suspect some irregularity they may insist upon an inspection of the luggage. A case of this kind occurred in 1905 when the American ambassador to Italy, Mr. Henry White, returning to his post from a vacation in Austria, was held up on the Italian frontier and his baggage carefully inspected.²⁹

It goes without saying that a diplomatic agent ought not to take advantage of these privileges. According to Callières, "There are a number of ministers who abuse the right of customs exemption which they possess in various countries, both as regards provisions and in the case of merchandise necessary for the maintenance of their establishment. These representatives go so far as to enter a large amount of provisions for the merchants from whom they

²⁷ *Instructions, op. cit.*, VII-12

²⁸ Feller and Hudson, *op. cit.*, *passim*.

²⁹ *Revue générale de droit international public* (Paris, 1906), XIII, 205.

exact tribute by lending to them their name in order to defraud the sovereign.”⁸⁰ Genet states that large quantities of narcotics of German origin have been introduced into France under the protection of the legation of an Oriental country.⁸¹

Embassy Importations in the United States—During the era of prohibition in the United States a number of interesting incidents occurred with regard to “embassy liquor” as it was called. Inasmuch as in spite of the Volstead Act diplomats were privileged to have their liquor protected from seizure and confiscation, liquor shipments to embassies and legations occurred regularly. The normal procedure of foreign representatives was to notify the Department of State when a shipment of liquor was due and to request free entry. The State Department referred the request to the Treasury Department which granted the permission. Upon arrival of the shipment an attaché of the embassy or legation would go to the port of entry, present his credentials, identify the shipment and have it transported to the official residence.

The police, however, were over zealous at times and upon a number of occasions detained or arrested drivers of trucks carrying “embassy liquor”. Matters were brought to a head when on March 15, 1929, the Washington police seized a truckload of sixty cases of whiskies, wines and other intoxicating beverages consigned to the Siamese legation, in spite of the fact that the third secretary of the legation was riding with the truck driver. Although the liquor was subsequently delivered and none was kept for evidence, the driver and his helper were held under bond and the truck confiscated.⁸²

In order to prevent further incidents of this sort, on March 22, 1929, the Treasury Department issued an order granting complete immunity for the importation into the United States and the transportation to the diplomatic mission to which it was consigned of all “embassy liquor”. The only restrictions were that all liquor should be imported through Baltimore and that due notification be given the United States authorities so that a Treasury Depart-

⁸⁰ F. de Callières, *De la manière de négocier avec les souverains* (Paris, 1716), 163.

⁸¹ Raoul Genet, *Traité de diplomatie et de droit diplomatique* (Paris, 1931), I, 437.

⁸² *New York Times*, March 17, 1929.

ment order identifying the shipment might be delivered to the diplomat. Any infraction of the diplomat's immunity by a peace officer of the United States would make the latter liable to a severe penalty.³³

American diplomats returning from their posts were not able to plead diplomatic immunity as a basis of non-payment of duties on liquor after the end of prohibition, even though the liquor was claimed to be remnants of the embassy stock. According to Washington correspondents, Walter E. Edge, Ambassador to France, and Frederic M. Sackett, Ambassador to Germany, had unused stocks amounting to 900 and 400 bottles, respectively. Secretary of the Treasury Morgenthau, a Democrat, saw no reason to postpone the operation of customs regulations in order to accommodate two wealthy Republican ex-diplomats.³⁴

Exemption from Taxes—Although there is not as much uniformity in the exemption from other taxes, an examination of the laws of the various countries indicates that the diplomatic agent is usually exempt from the payment of income taxes or any tax upon property owned or used for the purposes of the mission. Taxes on automobiles and licenses for their use are generally included in the exemptions, while stamp taxes as a rule must be paid.

The Pan American Convention on diplomatic officers adopted at Havana in 1928 makes the following regulations:

Diplomatic Officers shall be exempt in the state to which they are accredited:

1. From all personal taxes, either national or local;
2. From all land taxes on the building of the mission, when it belongs to the respective government;
3. From customs duties on articles intended for the official use of the mission, or for the personal use of the diplomatic officer or of his family.³⁵

A clear distinction should be noted between taxes and assessments or charges. It is not to be expected that a state where the government controls water, gas and electricity will furnish these

³³ For text of order see *New York Times*, March 23, 1929.

³⁴ Drew Pearson and Robert S. Allen, "The Washington Merry-go-round," *San Francisco Chronicle*, March 3, 1934.

³⁵ *Sixth International Conference of American States*, *op. cit.*, Article 18.

utilities to the foreign envoy free of charge. In the same way, any property owned by the diplomatic envoy or members of his family not used for residence or purposes connected with the mission need not be exempt from taxation. According to the laws of the United States, ministers and ambassadors accredited to the United States are exempt from payment of the federal income tax upon their salaries or upon income derived from investments in the United States. The income derived from any business carried on by them would be taxable. Property in the District of Columbia owned by foreign governments for embassy and legation purposes is exempt from general and special taxes and assessments. Property owned by an ambassador or minister and used for mission purposes is exempt from general taxes but not from special assessments or improvements. The payment of water assessments is required in all cases as this is not regarded as a tax but the sale of a commodity.⁸⁶

Right of Chapel—Another privilege or prerogative of comity rather than law is the right of private religious worship, or the *droit de chapelle*. This privilege includes the right of constructing a chapel for the diplomatic mission and making use of it, of maintaining an ecclesiastic in it in charge of the religious service and permission for other persons, particularly the fellow citizens of the envoy, to take part in the religious services.⁸⁷ Certain restrictions were sometimes imposed. The tolling of bells was not usually permitted; the state might require that the exterior of the chapel should not indicate its use; and the ceremony might be required to be carried on in the language of the diplomat. For example, in 1846, the Vatican informed the diplomatic agent for Prussia that services in the legation chapel might not be carried on in Italian.⁸⁸ In its treaties with Latin American states the United States formerly was accustomed to insert a clause regarding religious freedom and in the treaty with Venezuela of January 20, 1836, it was provided that citizens of the United States should not be disturbed in the proper exercise of their religion in private houses or

⁸⁶ *Circular Instructions, Department of State* Serial No. 766, November 9, 1928.

⁸⁷ P. Pradier-Fodéré, *Cours de droit diplomatique* (Paris, 1890), II, 267.

⁸⁸ F. von Holtzendorff, *Handbuch des Völkerrechts* (Leipzig, 1885-89), III, 659.

in the chapels appropriated for that purpose.³⁹ The British legation in Madrid formerly hired rooms for chapel attendance in a private home outside the legation, but no sign directing worshippers to it was permitted on the outside of the chapel. The American colony regularly attended here.⁴⁰

This privilege has no longer the same importance today as formerly when a spirit of religious intolerance existed and all profession except that of the state religion was prohibited.

Ceremonial Privileges—The diplomatic representative has certain rights of ceremonial which may be briefly mentioned. He may place the national coat of arms above the principal entrance of his residence and he may fly his national flag upon occasions of special ceremony. A diplomatic official is usually entitled to a salute when a naval contingent of his country is in port. The number of guns fired apparently depends upon the national regulations in force. The United States and Great Britain authorize a salute of nineteen guns for an ambassador, while the French give him seventeen; in the case of an envoy extraordinary and minister plenipotentiary the British authorize a salute of seventeen guns, the Americans fifteen and the French thirteen. The British minister resident receives fifteen, the American thirteen and the French eleven. The *chargés d'affaires* of Great Britain, the United States and France get respectively thirteen, eleven, and nine.⁴¹ According to American practice the salute is usually fired while the diplomatic representative is being conveyed from the vessel to the shore. He stands facing the vessel and at the end of the salute he raises his hat in acknowledgment.

Right to Title—Another prerogative of ambassadors is the right to the title of *Excellency*. This honorary title dates from the Treaty of Westphalia and according to Callières it is limited strictly to ambassadors. In practice, however, the title is quite commonly extended to ministers. The British, French and Spanish

³⁹ *U S Statutes at Large*, 472.

⁴⁰ John W Foster, *Diplomatic Memoirs* (New York, 1909), I, 289

⁴¹ *Instructions, op cit*, IV-6, *King's Regulations and Admiralty Instructions*, Article 66; *Décret du 18 février, 1928*, Chap. II, Sect. III, *Journal Officiel du 2 juin, 1928*, 6085.

governments still authorize its use, but the United States makes no mention of it in its instructions to diplomatic officers.

The Diplomatic List—In many countries it is customary to publish a diplomatic list in which are inscribed all those persons who are recognized as having the right to the benefit of diplomatic privileges and immunities. Sometimes the chiefs of protocol keep a much more extensive list of the members of missions which serves as a list for official dinners and ceremonial functions. In Washington formerly a number of lawyers who acted as counselors for certain legations had their names inserted in the *Diplomatic List* in order to obtain invitations to the receptions at the White House. Secretary of State Root discontinued the practice by ruling that an American citizen could not be clothed with a diplomatic character in a foreign legation in Washington. The Diplomatic List is now published by the Department of State every month and is restricted rigidly to the names, addresses and telephone numbers of the members of the foreign missions and their families. A similar supplemental list contains the names of the domestics of each embassy.

A number of states also issue diplomatic identity cards through their protocol officers to all diplomatic representatives and their wives and children. Turkey, for instance, issues such a card which guarantees to the holder full diplomatic immunity and the right to travel freely in the Turkish Republic.⁴² Special automobile license plates are also quite regularly issued to foreign envoys which by indicating the identity of the car warns off the over zealous sheriff in case of speeding. In Lima, Peru, where certain streets were for one-way traffic, the diplomat could travel in the opposite direction and he was exempt from tolls on the highways which regularly collected them.

Although diplomatic privileges extend regularly to all the members of the envoy's staff, a rather curious clause of limitation is found in the Austro-Russian treaty of 1922. According to this provision complete diplomatic privileges are accorded to chiefs of mission and to seven other members of the legation, but the functionaries above that number are not immune even from arrest.⁴³

⁴² Feller and Hudson, *op cit*, II, 1190.

⁴³ Francis Deák, "Classification, immunités, et privilèges des agents diplomatiques," *Revue de droit international et législation comparée*, 1928, 193.

A rather unique privilege assumed by the Argentine government was recently noted in the press. The Argentine government authorized its embassies in the large European cities to sell wheat directly to European millers. The plan met with considerable success in London and Berlin. According to the report, one London firm purchased one million bushels. The scheme also improved the exchange ratio of Argentine currency.⁴⁴ The only objection which might seemingly be raised to such an innovation might come from private concerns of these countries alleging discrimination in opportunity due to the prestige of a foreign embassy as compared to private sales offices. It is doubtful whether the Argentine Embassy could claim diplomatic privileges and immunities with regard to suits arising through such activities.

⁴⁴ *New York Times*, March 11, 1931.

CHAPTER XV

DIPLOMATIC IMMUNITIES

Inviolability of Person—The inviolability of the person of the diplomatic agent is the fundamental principle from whence flow all other immunities. In order to obtain this absolute security the state must not only abstain itself from any act which infringes upon the rights of the diplomatic agent, but it must prevent the commission of such acts and punish any individuals who may have committed such an offense. According to Vattel, anyone "who did violence to an ambassador or to any other public minister not only committed an injury to the sovereign whom the minister represented but he attacks the common safety and welfare of all nations. . . ." ¹

The right of inviolability embraces all classes of public ministers—the *chargé d'affaires* enjoys this immunity as fully as does the ambassador. It extends to all the persons who either officially or unofficially are connected with the diplomatic mission, regardless of their nationality. Furthermore, the diplomatic agent should enjoy a greater degree of protection than the ordinary citizen of the country to which he is sent. For example, in 1912 a reporter of an important Cuban newspaper assaulted Hugh Gibson, *chargé d'affaires* of the United States in Havana. The assailant was arrested but the judge released him with the remark that it made no difference to him whether the victim was the minister of the United States or a Cuban of the lowest class. The United States government protested vigorously at this interpretation of international law and demanded satisfaction. The reporter was finally taken into custody again and given a sentence of two and one-half years in jail ²

¹ E de Vattel, "The Law of Nations," *Classics of International Law* (Washington, 1916), edit III, 371

² *Foreign Relations of the United States, 1912*, 268. See also *National Encyclopedia of American Biography*, Current, Vol. A, 420.

The Assassination of Diplomats—In modern times the murder of a diplomat is rather a rare occurrence and when it does occur the government to which he is accredited is held strictly accountable. One of the famous instances was the murder of the German minister to China, Baron von Kettler, by soldiers of the regular Chinese army during the Boxer uprising. The fact that he was on his way to the Tsung-li-yamen on an official errand made the offense the more serious. China was compelled to dispatch to Berlin an expiatory commission headed by an imperial prince to express the regrets of the Emperor of China and of the Chinese government for the murder of the German envoy. China was also compelled to erect in the place where the murder was committed a commemoration monument suitable to the rank of the deceased and bearing an inscription in Latin, German and Chinese expressing the regrets of the Emperor of China for the murder.³

Another murder of a German diplomatic agent occurred in 1918 when Count Wilhelm Mirbach, the first German ambassador to the Bolshevik government, was assassinated in his office in the embassy by two Russians from the Left Social Revolutionary Party. The murderers also shot at the attachés and then threw a hand grenade to make certain that as much destruction as possible had been accomplished. Marie Spiridonova, Social Revolutionary leader, boasted that she had been the organizer of the plot to assassinate Mirbach in order to annul the Brest-Litovsk Treaty.⁴ It was reported that the Bolsheviks shot some two hundred members of the Social Revolutionary Party for participation in the murder plot.⁵

An assassination under somewhat different circumstances occurred in 1923 when Mechilav Vorovsky, the Soviet unofficial observer to the Lausanne Conference, was murdered by a White Russian whose relatives, it was claimed, had been killed by the Soviets. In this case the Swiss government did not regard itself responsible inasmuch as Vorovsky had not been invited to the Conference and when he appeared was definitely excluded. Never-

³ See Payson J. Treat, *The Far East* (New York, 1928), 346, 356, 424; also John Bassett Moore, *Digest of International Law* (Washington, 1906), V, 514-515. For an account of the reception of the expiatory mission of Prince Tschun see *Foreign Relations of the United States, 1901*, 187.

⁴ Louis Fischer, *The Soviet in World Affairs* (London, 1930), I, 121.

⁵ *New York Times*, July 25, 1918.

theless, when he was threatened by Swiss Fascists the Federal government gave him police protection. The murderer was promptly arrested and confessed that this was merely a part of a plot of the old Russian Red Cross to kill Bolshevik leaders. In spite of his guilt, Conradi, the assassin, was acquitted by a Swiss jury. The Soviet government protested violently, but Switzerland refused to act further. The Soviet government thereupon instructed its representatives abroad to refuse passport visas to Swiss citizens desirous of entering Russia and later established a boycott on Swiss products.⁶

A more recent example of the murder of a public envoy occurred in 1927 when Peter Vorkoff, Soviet minister at Warsaw, was assassinated by a Russian monarchist, Korenko. Marshal Pilsudski and all the members of the Polish cabinet expressed their profound regret and the Polish government offered an indemnity to the widow. It also agreed to permit the Soviet government to participate in an inquiry at Warsaw. Korenko was sentenced to fifteen years imprisonment and was later beaten in jail by Communists.⁷

Redress for Offenses to Diplomats—The great majority of states have very strict laws punishing offenses against the person of a diplomat. We have already noted the laws of Holland and the United States on this subject. The French law of 1881 punishes any offense committed against ambassadors, ministers plenipotentiary, envoys, *chargés d'affaires* or other diplomatic agents accredited to the government of the Republic with a week to a year's imprisonment and with a fine of 50 to 2,000 francs or either of the two penalties. This law was amended in 1893 to provide prosecution only at the instance of the injured party.⁸ Austria and Italy regard ordinary offenses as aggravated when perpetrated against the person of a foreign envoy.

Nationals Serving in Diplomatic Capacity—The prerogatives of a diplomatic agent extend regularly to all the officials of the mission, although a state may refuse to grant immunity to one of its

⁶ *New York Times*, May 11, November 17, 22, 1923.

⁷ *New York Times*, June 8, 16, 1927.

⁸ A. H. Feller and Manley O. Hudson, *Diplomatic and Consular Laws and Regulations* (Washington, 1933), I, 537.

own nationals serving as secretary, except upon its own terms.⁹ Some states refuse to receive their own nationals in any diplomatic capacity. When in 1886 the government of Honduras appointed Mr. Jacob Baiz, an American citizen, as chargé d'affaires of the Republic to the government of the United States, the Secretary of State refused to receive him on the ground that the privileges and immunities of a foreign minister made it inconvenient that a citizen of the country should enjoy such an anomalous position.¹⁰ The Havana Convention of 1928 declares that "States are free in the selection of their diplomatic officers; but they may not invest with such functions the nationals of a state in which the mission must function without its consent."¹¹

Immunity of Family and Official Personnel—Diplomatic inviolability extends to the agent's wife and family and usually to his servants although there is some conflict of authority in the latter case. In the case of the family the immunity would seem to be absolute. The son of a member of the Chinese legation in Washington in 1922, even though suffering from a contagious disease, was permitted to enter in spite of a decision of the immigration officials to the contrary.¹² A servant of the minister of Bavaria to Great Britain was recognized as having the right to exemption, whereas the physician of the same minister was refused exemption because he was not able to establish his appointment as *bona fide*.¹³ A sound basis for the determination of status would seem to be one based upon the doctrine *ne impediatur legatio*. If the servant is charged in the slightest degree with functions pertaining to the official work of the diplomat, he should be granted immunity. For example, a chauffeur regularly engaged in driving the envoy from his home to the chancery would be clearly privileged while a groom whose duties consisted in tending the ambassador's riding horses might not be accorded immunity. Workmen occasionally em-

⁹ C. C. Hyde, *International Law Chiefly as Interpreted and Applied by the United States* (Boston, 1922), I, 754.

¹⁰ Moore, *op cit.*, IV, 650.

¹¹ *Sixth International Conference of American States: Final Act* (Habana, 1928), Convention on Diplomatic Officers, Article VII.

¹² 285 *Federal*, 396.

¹³ Francis Deák, "Classification, immunités, et privilèges des agents diplomatiques," *Revue de droit international et législation comparée* (The Hague, 1928), 533.

ployed about the grounds would have no right to claim diplomatic immunity.

An interesting incident in this connection occurred in 1930 when a certain Jules Chaumonet, who claimed to be a butler of the French embassy, was arrested for reckless driving. He had struck a taxicab driver with his automobile and had seriously injured him. Inasmuch as Chaumonet's name appeared neither on the Department of State Diplomatic List nor on the list filed with the United States marshal for the District of Columbia, he could not claim immunity according to the laws of the United States. His only possibility of securing release through diplomatic privilege lay in a request from the French embassy on the basis of an error in the diplomatic list or that the State Department might grant his immunity as a matter of comity.¹⁴

Treatment Accorded Non-official Personnel—In practice there would seem to be three forms of treatment accorded non-official personnel. Great Britain and the United States accord substantially the same privileges and immunities as obtain for diplomatic officers. The official instructions declare: "The personal immunity of a diplomatic representative extends to his household. . . . Generally his servants share therein, but this does not always apply where they are citizens and subjects of the country of sojourn."¹⁵ Other states, as for example, Belgium and Italy, grant no privileged standing to the non-official personnel. Finally, a number of states,—Germany, Poland and Hungary, grant diplomatic immunities to servants, providing they have the same nationality as the diplomatic representatives.¹⁶ The Havana Convention of 1928 seems to avoid the issue directly by granting immunity specifically only to the entire official personnel of the mission and to members of the respective families under the same roof.

Couriers, Correspondence and Communication—It is essential that the correspondence of diplomatic representatives be absolutely

¹⁴ *Cumulative Digest of International Law and Relations* (Washington, November 6, 1930)

¹⁵ *Instructions to Diplomatic Officers of the United States* (March 8, 1927), VIII-8.

¹⁶ Cf. "Report of the Council of the League of Nations on the Questions Which Appear Ripe for Codification," *League of Nations Publication C. 196. M. 70, 1927, V, 83*

inviolable for the satisfactory functioning of the mission Fauchille declares that the minister must possess "absolute liberty to correspond with his government, to send and receive letters and despatches whether by special couriers provided with papers stating their position or by the facilities of the local post".¹⁷

In times of peace there are rarely any violations of this fundamental right. A few instances, however, may be cited. The Spanish customs officers at Irun seized in 1893 the pouch and correspondence of the courier of the French embassy at Madrid and detained him for twenty-four hours. Upon the strong protest of the French government the Spanish government dismissed the over zealous official.¹⁸ In 1908 while the United States and Venezuela were engaged in a heated correspondence which ultimately resulted in the rupture of diplomatic negotiations the Venezuelan post office opened the pouches containing the official diplomatic correspondence from the United States.¹⁹ In 1921 the Danzig officials demanded to know the contents of the letters and documents which were being dispatched by a Polish courier to Warsaw. When the officer refused he was obliged to interrupt his journey. The Polish government registered a strong protest with the Danzig Senate against this violation of diplomatic immunity.

In the same way messengers and couriers who carry official despatches possess the right of inviolability. They should be exempt from every form of visit and search in passing through friendly countries. The instructions to diplomatic officers of the United States state that couriers and bearers of despatches employed by a diplomatic representative in the service of his government are privileged persons as far as is necessary for their particular service whether in the state to which the representative is accredited or in the territory of a third state with which the government they serve is at peace.²⁰

Communications in Time of War Inviolable—It is in times of war that the real problem of free communication arises. The United States has consistently taken the stand that so long as

¹⁷ Paul Fauchille, *Traité de droit international public* (Paris, 1926), I, Pt III, 66.

¹⁸ *Revue générale de droit international public* (Paris, 1894), I, 60.

¹⁹ *Ibid.*, (Paris, 1908), XV, 439.

²⁰ *Instructions, op. cit.*, VII-11.

the United States is neutral it has a right to communicate with its diplomatic representatives even if the foreign capital is in a state of siege. Secretary Fish well expressed the American doctrine when the Argentine military commander besieging Asuncion refused to permit a messenger to communicate with the United States Minister to Paraguay, Mr. Washburn. He considered the action as especially unfriendly to the United States and wholly without substantial reasons and he was aware of no instance where a belligerent measure designed to prevent commercial intercourse with the enemy had been invoked to prevent the government of a friendly state from communicating with its diplomatic agent in the blockaded areas.²¹

A somewhat similar situation arose during the siege of Paris by the Germans in 1870. The United States again protested vigorously and successfully when the German authorities refused to allow Mr. Washburne, the American minister in Paris, to send a message to London with diplomatic despatches unless the contents of the pouch were unsealed.

The practice of the United States has coincided with this expression of policy. During the Civil War General McClellan was directed to instruct General Wool and other commanding officers in cases where packages or parcels addressed to a foreign minister or government fell into their hands to transmit them unopened to the Department of State.²² Instructions to naval officers required such articles to be consigned unopened to the proper naval, diplomatic or consular officer.²³

Violation of Neutral Diplomatic Rights—During the World War numerous violations of neutral diplomatic rights occurred, particularly in the delay of messages or refusal to permit the passage of cipher messages by way of cables controlled by the belligerents. On August 27, 1914, Ambassador Page at London informed the Secretary of State that British censorship regulations provided that only messages passing between diplomatic missions and the government at Washington could go in cipher. All others

²¹ Moore, *op. cit.*, IV, 696.

²² *Ibid.*, 711.

²³ *Ibid.*, 712.

had to be open.²⁴ Subsequently a telegram from Minister Reinsch in Pekin to the Consul General at Hong Kong was held, although later it was allowed to pass.²⁵ Ambassador Nelson Page at Rome complained that the French were delaying or intercepting official telegrams from the American Consul General at Genoa to the embassy.²⁶

In order to protect the diplomatic pouch service the United States at the outbreak of the War attempted to establish uniform regulations for transmission of American diplomatic correspondence in belligerent territory and suggested the following regulations:

1. All correspondence between American diplomatic and consular officers to be inviolable if under seal of office.
2. No private correspondence to be forwarded by diplomatic and consular officers under official seal.
3. Official correspondence between American diplomatic officers residing in different countries not to be opened or molested if under seal of office
4. Official correspondence under seal of office between the State Department and American officers abroad not to be opened or molested.
5. Pouches under seal passing between American diplomatic missions under mail or courier not to be opened or molested.²⁷

On the whole these regulations were accepted and observed by the belligerents although a few exceptions occurred. For example, it was claimed that the entire mails, including presumably American diplomatic and consular pouches, were removed by British authorities on December 23, 1915, from the Dutch steamer *New Amsterdam*.²⁸

One of the very interesting incidents pertaining to the transmission of diplomatic correspondence during war times occurred in Argentina. The German chargé d'affaires at Buenos Aires dispatched through the pouch of the Swedish legation several ex-

²⁴ *Department of State—Diplomatic Correspondence with Belligerent Governments Relating to Neutral Rights and Duties*, II, 72.

²⁵ *Ibid.*, II, 86.

²⁶ *Ibid.*, II, 82.

²⁷ *Ibid.*, II, 67.

²⁸ *Ibid.*, III, 145.

ceedingly incriminating documents, including the famous note suggesting that two small Argentine vessels be spared or sunk without a trace (*spurlos versenkt*). It would seem as though the Swedish Minister, Baron Lowen, in sending these despatches as a part of his own diplomatic correspondence when they were addressed to the Foreign Office at Berlin was engaged in a highly reprehensible form of unneutral service. Even though he might have been ignorant of the content of the despatches, he, a neutral, was rendering a definite service to the belligerent German government.

The proper procedure seems to have been followed by Dr. Henry Van Dyke, American Minister at The Hague. He was asked by the Imperial Austro-Hungarian legation to transmit a message in the American diplomatic code to the American minister in Brussels to be delivered to the Austro-Hungarian legation which was still in Belgium. When he found that a part of the despatch was written in the Viennese numerical cipher which he could not read he refused to transmit the despatch on the ground that his instructions explicitly forbade sending a message in two codes ²⁹

Reputation of Diplomats—The public minister should be protected against any defamation of his reputation. The liberty of the press in this case is restricted by international law. When an article in the *New York Journal and Patriotic Register* of September 13, 1794, entitled *The British Solomon*, libeled the British minister, the Attorney General of the United States declared that the law of libel which protected the citizen was in the case of a foreign minister "strengthened by the law of nations, which secures the minister a peculiar protection not only from violence but also from insult." ³⁰

During the World War the Swiss government was constantly struggling to prevent the publication of articles in the press and the circulation of petitions among the people derogatory to the German minister with a view to forcing his recall. A regulation with severe penalties attached was finally promulgated by the Swiss Federal Council in order to maintain a strict neutrality.

²⁹ David Jayne Hill, "The Luxemburg Secret Correspondence," *American Journal of International Law*, XII 135 (January, 1918).

³⁰ Moore, *op cit*, IV, 629

Immunity of Residence—It is almost an axiom of diplomatic practice that the official residence of the diplomatic officer and the chancery of the embassy or legation should be exempt from local jurisdiction. Vattel explains the principle thus: "The independence of the ambassador would be very imperfect and his safety very uncertain if the edifice in which he lived did not enjoy a complete immunity and if it were not inaccessible to the regular officers of justice."³¹ The Havana Convention of 1928 has this provision: "No judicial or administrative functionary or official of the State to which the diplomatic officer is accredited may enter the domicile of the latter or of the mission without his consent."³²

One of the often quoted instances of violation of this rule occurred in 1827 when the coachman of Mr. Gallatin, the United States Minister to Great Britain, was arrested in the legation stable on a charge of assault. Although Mr. Gallatin had already dismissed the servant, he objected to the unauthorized action of the police in failing to respect the inviolability of the legation. Although the British government was not convinced that a violation of the law had occurred, assurance was given that in the future measures would be taken to inform the minister before executing a warrant in order that he might not be inconvenienced.³³

A somewhat unique example occurred during the occupation of Paris by the Germans in 1871. The home of the American Minister, Mr. Washburne, was invaded by members of the French National Guard. Although Mr. Washburne was not occupying the house at the time, the German military authorities took this as an offense against their own government inasmuch as the American minister was protecting their interests. Thus we have Germany protesting against the violation of American diplomatic immunity. The French government expressed indignation and regret at the occurrence but was unable to find the guilty parties.³⁴

On occasions when public feeling is aroused against a certain state a mob is likely to attempt to wreak its vengeance upon the diplomatic property of that country in the capital of the injured state.

³¹ E. de Vattel, *op. cit.*, Bk IV, Chap IX, Sect. 117.

³² Sixth International Conference of American States, *op. cit.*, Article 16.

³³ Sir Ernest Satow, *A Guide to Diplomatic Practice*, 2nd ed (London, 1922), I, 295-300.

³⁴ Elihu B. Washburne, *Recollections of a Minister to France* (New York, 1889), II, 133-135.

When the foreign policies of two countries clash or when some untoward event arouses public opinion it is essential that the governments concerned furnish every protection against mob violence to the diplomatic premises of the unpopular state. For example, when the United States handed down its award in the Tacna Arica dispute, the government of Peru threw a military guard around the American embassy to protect Ambassador Poindexter and the American mission from injury at the hands of incensed Peruvians.

If it is suspected that the premises of the diplomatic mission are being used for subversive propaganda against the safety of the state does the immunity still hold? In 1927 the Chinese government at Peking, suspecting the Soviet embassy of aiding the Chinese communist movement, broke into the embassy and seized a quantity of arms, munitions and documents. When the Soviet Ministry of Foreign Affairs protested and demanded restitution, the Peking government replied that the results of the search fully justified the violation of diplomatic immunity. Diplomatic relations between the two governments were severed soon afterwards.³⁵

A rather amusing incident is told of a Berlin landlord who, angered at the large number of visitors who came daily to the passport bureau of the Rumanian legation, gave the Rumanian mission a notice of twenty-four hours to vacate the premises. When the minister refused to move, the proprietor had a wall built closing the entrance to the chancery. The Rumanian minister protested to the German Foreign Office, but when no immediate relief was obtained he called in masons and had them tear down the wall. When the proprietor had it rebuilt the German Foreign Office intervened and placed a guard of police at the legation to permit freedom of entry. The landlord then offered the edifice to the German Ministry of Social Welfare to be used for the housing of the poor. But the Rumanian successfully stood upon his diplomatic rights.³⁶

During the Bolshevik Revolution of 1918, Norman Armour, Second Secretary of the American Embassy, was left in charge of the American mission at Vologda by Ambassador Francis.

³⁵ V. Yoshitomi, "L'affaire de la P. acquisition de l'ambassade soviétique à Pékin," *Revue générale de droit international public* (1928), XXXV, 184.

³⁶ Fauchille, *op cit*, I, Pt. iii, 73.

When he was ordered to proceed to Moscow by the head of the Extraordinary Revolutionary Committee he refused. A train was prepared and when Armour again refused, troops entered the embassy during the night and compelled the American mission to depart.³⁷

The regulations of the Union of Soviet Socialist Republics are very strict on this subject and state that premises occupied by diplomatic missions and their families are inviolable. "Searches and seizures on these premises may be effected only on the request or with the consent of the diplomatic representative. . . ." ³⁸ Nevertheless, acting under orders of the Bolshevik government, Russian troops in August, 1918, broke into the embassy of Great Britain at Petrograd and destroyed the archives and documents.³⁹ Russia suffered in a similar manner in 1923 when agents of the Italian police entered into the offices of the Russian mission in Genoa with the aid of a locksmith and searched it.⁴⁰

Asylum—The problem of the immunity of the residence becomes much more complicated when it becomes involved with the question of asylum. Although the right of asylum is still recognized in certain parts of the world, particularly in Latin American countries where revolutionary activities are not uncommon, there is a growing sentiment against granting it under any conditions. Even where the right still exists it may be granted only to political refugees and at a time of urgent necessity as the sole method available to protect the life of the person seeking asylum. According to Sir Cecil Hurst, "the right of asylum is only a temporary protection against injustice and arbitrary acts."⁴¹

The Latin American Republics signed a convention relative to asylum at Havana in 1928 which indicates their present stand on the subject. According to Article I it is not permissible for States to grant asylum to persons accused or condemned for common crimes or to deserters from the army or navy. By Article II asylum to political refugees is governed by the following rules:

³⁷ David R. Francis, *Russia from the American Embassy* (New York, 1921), 289.

³⁸ Feller and Hudson, *op. cit.*, II, 1219.

³⁹ Fauchille, *op. cit.*, I, Pt. iii, 75.

⁴⁰ *Ibid.*, 73.

⁴¹ Sir Cecil Hurst, "Les immunités diplomatiques," *Académie de Droit International, Recueil des Cours*, XII, 218.

1. Asylum may not be granted except in urgent cases and for the period of time strictly indispensable for the person seeking it to ensure his safety in some other way.
2. Immediately upon granting asylum the diplomatic agent must report the fact to the Minister of Foreign Relations of the refugee's state
3. The government may require that the refugee be sent out of the state within the shortest time possible but it must accord the necessary guarantees for the inviolability of his person
4. Refugees shall not be landed in national territory nor in places immediately adjacent.
5. While enjoying asylum refugees may not be allowed to perform acts contrary to public peace ⁴²

The United States signed this convention with the reservation that it did not recognize or subscribe to the so-called right of asylum as a part of international law. In its instructions to its diplomatic officials the United States clearly indicates that it neither favors nor encourages the right of asylum. While conceding that in some countries where revolutions are frequent and instability of government exists the practice has become established, the United States impresses upon its representatives that they should refuse to grant asylum except in cases of urgent necessity where imminence of violence exists.⁴³

When in 1905 Mr. Powell, Minister of the United States to Haiti, granted asylum to an American citizen named Cameau, who alleged that he was in danger of being arrested, the American envoy was severely criticized by the State Department on the ground that mere allegations were not sufficient but that actual proof was required that the refugee's life was in imminent jeopardy.⁴⁴

Numerous examples of the granting of asylum might be cited, particularly in Latin American countries. Several instances which occurred in Peru in the year 1865 were carefully considered by the entire diplomatic body. The first, which took place in May, concerned the protection accorded by the American Minister, Mr. Robinson, to General Canseco, who sought asylum in the Ameri-

⁴² *Report of the United States Delegates to the Sixth International Conference of American States* (Washington, 1928), 225.

⁴³ *Instructions, op. cit.*, VII-6.

⁴⁴ *Foreign Relations of the United States*, 1905, 553.

can legation. When certain difficulties arose, the diplomatic corps agreed that asylum should be granted with the greatest reserve and then only for sufficient time to permit the refugee to secure other means of protection. Following the revolution of November of the same year four ministers of the Pezet administration sought refuge in the French legation. When the Peruvian government demanded their surrender the French chargé refused and was sustained by his government. Another meeting of the diplomatic corps took place at the request of the Peruvian foreign minister who sought the abolition of the right of asylum. He was supported by the new American minister, Mr. Hovey, who cited Wheaton, Woolsey and Polson to support his stand. The other ministers of Latin American states would not agree to its complete elimination and no definite action was ever taken.⁴⁵

One of the cases which had rather serious consequences occurred in Chile in 1891 in the revolution against President Balmaceda. When the Congressional forces were victorious, Balmaceda, fearing mob violence, sought refuge in the Argentine legation. His family and a number of government officials sought asylum in the American legation. The Chilean government protested against the protection afforded by Mr. Egan, the American Minister, but he refused to surrender the fugitives until they were given safe-conducts.⁴⁶ As a result of the animosity engendered by this protection afforded by the American legation to the defeated faction, an attack was made upon the officers and men of an American warship during shore leave in Valparaiso a few months afterwards.

The intervention of the United States marines in Haiti in 1915 was partly due to the violation of the right of asylum by the Haitians. President Guillaume Sam, after putting to death a large number of influential Haitians, fled for refuge into the French legation. The infuriated populace, bent on his destruction, broke into the legation, dragged him out and cut him to pieces. Admiral Caperton landed the marines to protect the legation and restore order and there they remained for about twenty years.

The problem is not entirely limited to Latin America. As late as 1895 in Turkey a former grand-vizier found it advisable to

⁴⁵ The debate in detail may be found in P. Pradier-Fodéré, *Cours de droit diplomatique* (Paris, 1899), II, 93-105.

⁴⁶ Graham H. Stuart, *Latin America and the United States* (New York, 1928), 410

seek refuge with his son in the British embassy at Constantinople. The Sultan demanded his immediate surrender, but the British ambassador, supported by the entire diplomatic corps, refused to compel the two refugees to leave. The Sultan finally gave formal assurances in writing that his former official was free to live in any part of the Turkish capital without fear of molestation. Relying upon these promises, Said Pasha left the embassy accompanied by one of the dragomen. At the same time the British ambassador notified the Turkish minister of foreign affairs that the grand-vizier had left of his own accord, relying upon the assurances given which he trusted would be carried out.⁴⁷

Even the United States Department of State in 1911, at the request of the American chargé d'affaires in Peking that he be permitted to offer asylum to the Emperor and Empress Dowager of China, authorized that a temporary refuge be afforded where he felt that it was necessary to preserve innocent human life.⁴⁸

Inviolability of Archives—The inviolability of the diplomatic domicile and offices includes the archives of the mission. Not only are they the property of the mission but their importance and confidential character gives added reason for their protection. The question could hardly arise except in cases of severance of diplomatic relations. Even at such a time the departing envoy is usually able to turn over the building and archives to a neutral colleague. When Italy took over the Austro-Hungarian embassy in 1916 every precaution was taken for the protection of the archives. In fact, a period of two months time was allowed for their transfer which was supervised by the Spanish embassy under the protection of the Italian police.⁴⁹

When the Czarist government was overthrown by the Bolsheviks the question of the Russian archives in the various countries raised an interesting problem. When consulted on the subject the eminent Swiss authority, O. Nippold, declared: "Normally the inviolability of foreign ministers extends to the archives which are equally inviolable. Local authorities can neither examine them nor seize them. If a diplomatic mission terminates, either the per-

⁴⁷ *Revue générale de droit international public* (Paris, 1896), III, 375.

⁴⁸ *Foreign Relations of the United States, 1912*, 174.

⁴⁹ *Revue générale de droit international public* (Paris, 1917), XXIV, 244.

sonnel of the legation or that of a friendly power should affix the seals; as a last resort only if the personnel is absent, should this task be assumed by the local authorities.⁵⁰ The Swiss government thereupon put under sequestration in Berne both the Russian legation and its archives.

We have already noted that the principle of diplomatic inviolability extended to all members of a diplomatic mission including attachés, secretaries, interpreters, the family and servants. To this number should be added the representatives sent on special missions for important ceremonial or other occasions. Envoys to important international conferences and congresses are also regularly accorded the same privileges and immunities enjoyed by diplomats.

Immunity of League of Nations Officials—The development of international organization and adjudication has extended still further the scope of diplomatic immunities. The Covenant of the League of Nations provides that representatives of the Members of the League and all League officials engaged upon League business shall enjoy diplomatic privileges and immunities. The League Covenant also provides that buildings and other property occupied by the League or its officials shall be inviolable.⁵¹ The Swiss Federal Council by a special *modus vivendi* of 1926 has granted full diplomatic privileges and immunities to all League officials and inviolability to all of its buildings, archives and properties. The Netherlands by an agreement signed in 1928 has done the same for the judges and property of the World Court.⁵²

Jurisdictional Immunity—It has been said that immunity from local jurisdiction is the most important privilege which a diplomat enjoys.⁵³ The famous Diplomatic Privileges Act, otherwise known as the Act of 7 Anne, was passed in 1708 as a result of the violent arrest and seizure of Mattweof, Ambassador of Peter the Great. This act declared that "all writs and processes that shall at any time hereafter be sued forth or prosecuted whereby the person of an

⁵⁰ *Revue de droit international, Clunet*, XLV, 1134.

⁵¹ See J. Secrétan, *Les immunités diplomatiques des représentants des états membres et des agents de la Société des nations* (Geneva, 1928).

⁵² Satow, *op. cit.*, 3rd ed. (London, 1932), 475-481.

⁵³ Francis Deák, *op. cit.*, 201.

ambassador or other public minister . . . may be arrested or imprisoned, or his or their chattels may be distrained, seized or attached, shall be deemed and adjudged to be utterly null and void. . . ." ⁵⁴ The British courts in numerous subsequent cases upheld this law as declaratory of international law on the subject. ⁵⁵

Almost all the great publicists, classic and modern, accept this principle: Grotius, Bynkershoek, Vattel, Bluntschli, Calvo, Wheaton, Hall, Pradier-Fodéré, Fauchille, Satow, and Genet. This immunity of jurisdiction so universally admitted covers both criminal and civil cases. The first paragraph of the section devoted to immunities in the instructions to American diplomatic officers states that "A diplomatic representative possesses immunity from the criminal and civil jurisdiction of the country of his sojourn and cannot be sued, arrested or punished by the laws of that country. . . . It is not to be supposed that any representative of this country would intentionally avail himself of this right to evade just obligations." ⁵⁶ The Revised Statutes of the United States provide that any judicial process whereby the person of any public minister is arrested or imprisoned is declared to be void. ⁵⁷

Immunity from Criminal Jurisdiction—Sir Cecil Hurst has declared that no instance has been cited where a diplomatic agent has been subjected to the criminal jurisdiction of the country to which he was accredited without his consent ⁵⁸ An extreme instance of jurisdictional immunity occurred in London in 1916 when the body of the first secretary of the Italian embassy was found in a hotel bedroom. As he had been shot, it was the duty of the coroner to hold an inquest into the cause of the death. Nevertheless, when the Italian ambassador objected, the British authorities withdrew jurisdiction, conceding that the diplomatic exemption from civil or criminal process excludes the jurisdiction over the dead body of any member of an ambassador's suite ⁵⁹

⁵⁴ *British and Foreign State Papers*, I, 903; E. D. Dickinson, *Cases and Other Readings on the Law of Nations* (New York, 1929), 562.

⁵⁵ See *Barbuits Case* (1735) 25 *Eng. Rep.* 777, *Triquet v. Bath* (1764) 3 *Burr.* 1478.

⁵⁶ *Instructions*, *op. cit.*, VII-1.

⁵⁷ *Revised Statutes of the United States*, Sects. 4063, 4064.

⁵⁸ Hurst, *op. cit.*, 92.

⁵⁹ Satow, *op. cit.*, 2nd ed. (London, 1922), I, 260.

It should be noted, however, that although the diplomatic agent cannot be tried by the local courts, nevertheless he can be recalled or dismissed and punished by his home government upon his return.

When in 1868 Secretary of State Seward learned that two official members of the Prussian legation had been guilty as principal and second of violating the law of the District of Columbia against dueling, he brought the matter to the attention of the German minister. Since the persons in question were "protected by the law of nations from judicial prosecution for a violation of the statute . . .", the matter was brought to the attention of their government that they might "in a proper manner be made sensible of its displeasure".⁶⁰

If a public minister should conspire against the safety of the state he may be restrained temporarily and expelled at the earliest possible moment but no punishment may be inflicted upon him by the injured state. Numerous historical cases might be cited in substantiation of this customary procedure. A much quoted early case occurred in 1584. Evidence showed that Mendoza, the Spanish Ambassador to England, had conspired to introduce foreign troops and dethrone Queen Elizabeth. The English government, following the opinions of Gentilis and Hotman, who declared that an ambassador though a conspirator, could not be put to death, but should be sent home for punishment, ordered him to depart and sent a commission to Spain to bring a complaint against him.⁶¹ The British Ambassador to Spain during the revolutionary activities of 1848, Henry Bulwer, was given forty-eight hours to leave on the ground that he was guilty of complicity in the revolt. In this case the real reason was the interference by Bulwer in Spanish political affairs in accordance with instructions from the British Foreign Minister. Since the Spanish government made no serious effort to justify their charges Lord Palmerston responded by dismissing the Spanish minister in London.⁶²

A number of such incidents occurred in the United States preceding its entrance into the World War. Mr. Constantin Dumba, the Austro-Hungarian minister at Washington, admitted that he

⁶⁰ Moore, *op. cit.*, IV, 634

⁶¹ Sir Robert Phillimore, *Commentaries on International Law*, 3rd ed. (London, 1879-1889), II, 206

⁶² W. E. Hall, *A Treatise on International Law*, 4th ed. (Oxford, 1895), 316.

proposed to his government plans to instigate strikes in American manufacturing plants engaged in the production of munitions of war and used an American citizen with an American passport to carry these official despatches to his government. The government of the United States immediately requested his recall.⁶³

The cases of Captain Boy-Ed, Naval Attaché, and Captain von Papen, Military attaché, of the Imperial German Embassy at Washington, were more serious. They were guilty of numerous violations of American laws and of their obligations as diplomatic officials. Captain Boy-Ed was engaged in efforts to provide German warships at sea with coal and other supplies in violation of American laws. Captain von Papen furnished funds to various individuals with instructions to blow up certain factories and bridges and also directed the manufacture of incendiary bombs and their placing upon Allied vessels.⁶⁴ In these cases the United States was compelled to address the German ambassador on two successive occasions with requests that they be recalled.

Immunity from Police Jurisdiction—A diplomatic agent is free from local police jurisdiction but the government to which he is accredited has a right to expect that he will obey such municipal regulations as speed laws, sanitary measures, measures for fire protection and game laws. Since the advent of the automobile, diplomatic officers have been quite frequently arrested for speeding by county sheriffs and constables wholly unacquainted with the law of diplomatic immunity. A secretary of the British legation was arrested in 1904 at Lenox, Massachusetts, for driving at an unlawful speed. Taken before the local magistrate, the secretary claimed exemption through his diplomatic status, but the magistrate refused to recognize such a plea and imposed a fine. The State Department took up the case with the Governor of Massachusetts. When the magistrate explained that he was ignorant of international law and apologized the incident was closed.⁶⁵

The situation in Washington, D. C., where both diplomats and

⁶³ "Diplomatic Correspondence between United States and Belligerent Governments," *American Journal of International Law, Supplement*, X (1916), 361.

⁶⁴ *Report from Committee on Foreign Affairs to House of Representatives No 1, 65th Congress, 1st sess., 5-9*

⁶⁵ Frederick Van Dyne, *Our Foreign Service* (Rochester, New York, 1909), 79.

Congressmen assume diplomatic privileges and immunities is particularly unfortunate. On one day in 1926 the District Commissioners transmitted to Secretary Kellogg the case of the second secretary of the Belgian Embassy caught speeding through traffic on Massachusetts Avenue at fifty-five miles an hour and that of an attaché of the Ecuadorean legation who, having had his attention called to a violation of the parking ordinance, replied to the policeman, "If I choose to leave my car in the middle of Sixteenth Street it would be none of your damn business," and pushed the officer from the running board. The State Department threatened to suggest the withdrawal of offending diplomats if violations continued.⁶⁶

A recent case which attracted much publicity occurred in Elkton, Maryland, when the town officer arrested Ghaffar Khan Djalal, Minister from Iran, for speeding and reckless driving. When both the envoy and his wife resisted, the former was taken into custody, handcuffed and brought before a local justice of the peace. The charge was dismissed, but the costs were assessed against the chauffeur. A formal protest was lodged with the Department of State by the irate plenipotentiary and he ultimately received expressions of regret from Secretary Hull and the Governor of Maryland. The police officer was dismissed for his violation of diplomatic immunity.⁶⁷

When one of the American diplomatic secretaries in Tokyo was arrested on a Japanese train for gambling, although he escaped arrest by pleading diplomatic immunity, he did not escape the wrath of the American ambassador who saw to it that he was soon transferred back to Washington.

An interesting case which would seem to be an exception to the general rule occurred a few years ago in Paris. Mr. Ferdinand Belin, a secretary of the United States Embassy in Paris, was condemned to pay an indemnity for having injured two people with his automobile. The Paris court rejected the claim of diplomatic immunity on the ground that "diplomatic immunities have been created in the interest of governments and not for their agents and do not extend to the private affairs of the latter."⁶⁸

⁶⁶ *New York Times*, January 28, 1926.

⁶⁷ *Ibid.*, November 28, 1935.

⁶⁸ Francis Deák, *op cit.*, 204.

Immunity from Civil Jurisdiction—A public minister's freedom from civil jurisdiction is complete in so far as it is necessary for him to be free to perform his official duties. He may not even be sued for debts and his furniture and other personal property is exempt from seizure through judicial procedure. When some years ago the owner of "Stewart Castle" in Washington attempted in vain to secure payment for damages incurred during the incumbency of the Chinese Legation, he presented his claim to the Department of State. After investigating the claim, the American Minister at Peking was authorized to bring the matter to the attention of the Chinese government and a settlement was effected.⁶⁹

Certain exceptions, however, are sometimes claimed. For example, if a public minister engages in commerce or professional affairs, are these transactions subject to local jurisdiction? Although Hershey⁷⁰ and a few other authorities permit such exceptions and the Italian courts have so decided in two such instances⁷¹ the consensus of opinion grants a complete immunity from civil actions under all circumstances.

The British and American courts have consistently ruled against any kind of a civil process against a public minister. French courts have followed the same course. In fact, in a judgment of the Cour de Paris in 1876 (S 77.2 17) it was held that diplomatic agents are exempt from civil jurisdiction even as to acts committed in a private capacity. Even a French citizen, the agent of a foreign state, enjoys diplomatic immunities in France.⁷²

The Convention of Havana of 1928 is very explicit upon this point:

Diplomatic officers are exempt from all civil or criminal jurisdiction of the state to which they are accredited; they may not, except in the case when duly authorized by their government, waive immunity, be prosecuted or tried unless it be by the courts of their own country.⁷³

The implication in this convention is that if the government of

⁶⁹ Van Dyne, *op cit.*, 80.

⁷⁰ Amos Hershey, *Essentials of International Public Law and Organization* (New York, 1927), 406.

⁷¹ Satow, *op. cit.*, 3rd ed (London, 1932), 177.

⁷² For summary of American, British, and French cases see *American Journal of International Law, Supplement*, XXVI, 100-102.

⁷³ *Sixth International Conference of American States, op cit.*, Article 19.

the diplomatic agent gives his permission the envoy may renounce his immunity. But in order to renounce this privilege it is necessary that the government give its express consent to submit to the local authority. In the case of a murder committed in Belgium by the son of the Chilean chargé d'affaires the Belgian government refused to prosecute even after the father had renounced immunity of jurisdiction for his son until the Chilean government gave formal notice that it would consent for the murderers to be tried in Belgium.⁷⁴ If, however, the envoy begins an action himself before the local jurisdiction he must submit to the consequences of his action even to the extent of being condemned to pay the costs if the suit should fail.

Exemption from Giving Testimony—The immunity of a diplomatic agent permits his refusal to testify in court even though his evidence is essential to secure conviction. The American instructions declare explicitly that he cannot "waive his privilege, except by the consent of his government; for it belongs to his office, not to himself".⁷⁵ When a case of homicide occurred in Washington in 1856 in the presence of the Dutch minister, Mr. Dubois, inasmuch as his testimony was regarded as essential he was asked to appear and testify. When he declined the United States, conceding his right to refuse to appear, brought the matter to the attention of his government, since the circumstances of the case appealed strongly to the universal sense of justice. The Netherlands government agreed to Mr. Dubois giving his declaration under oath but such procedure could not be admitted as evidence in American law.⁷⁶ According to Calvo,⁷⁷ Oppenheim,⁷⁸ and Foster,⁷⁹ the Dutch minister became *persona non grata* and his recall was requested. Satow, however, declares this not to be true, that his recall was at his own request, and that when Mr. Dubois left, the President declared that his conduct in the United States had met the approbation of this government.⁸⁰

⁷⁴ *Revue générale de droit international public* (Paris, 1907), XIV, 159.

⁷⁵ *Instructions*, *op cit.*, VII-1.

⁷⁶ *Senate Executive Document 21, 34th Congress, 3rd Session*

⁷⁷ Charles Calvo, *Le droit international théorique et pratique*, 4th ed., 6 vols. (Paris, 1896), III, 319, Par. 1520 n.

⁷⁸ L. Oppenheim, *International Law*, 2 vols. (New York, 1912), I, 465.

⁷⁹ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 161.

⁸⁰ Satow, *op cit.*, 2nd ed. (London, 1922), 282 note.

On the contrary, the Venezuelan minister at Washington who had been present at the assassination of President Garfield asked permission of his government to waive his immunity and he testified against the assassin.⁸¹ In similar fashion Mr Iddings, secretary of the American embassy at Rome, was permitted to give testimony against a pickpocket. In this case the deposition was taken at the embassy by the judge before whom the case was pending.⁸²

In 1902, when the son of the United States minister to Guatemala shot and killed another American in Guatemala City, Secretary Hay at the request of the Guatemalan government instructed the American secretary of legation who had witnessed the shooting to waive his diplomatic immunity and testify before the Guatemalan courts. Incidentally, the accused might have claimed exemption as a member of the diplomat's family. The minister, however, cabled the State Department that his son was in business for himself and not connected with the legation in any way to be entitled to immunity. He was tried and acquitted in the Guatemalan courts.⁸³

Duration of Immunities—As to the duration of immunities, it would seem as though an envoy should enjoy diplomatic immunities from the moment when the *agrément* has been secured from the government to which he has been accredited. The privilege should continue during the entire period of his mission as well as to include time sufficient for him to return to his country. During a trial before an American tribunal the judge aptly expressed the principle in force: "The diplomatic agent has the right to immunities 'eundo, morando et redeundo'." ⁸⁴

The Pan American Convention of 1928 on diplomatic officers follows the general rule: "Diplomatic officers enter upon the enjoyment of their immunity from the moment they pass the frontier of the state where they are going to serve and make known their position. The immunities shall continue during the period that the mission may be suspended, and even after it shall be terminated, for the time necessary for the officer to be able to withdraw with the mission." ⁸⁵

⁸¹ Moore, *op. cit.*, IV, 644.

⁸² *Foreign Relations of the United States*, 1901, 302.

⁸³ Van Dyne, *op. cit.*, 82.

⁸⁴ James Brown Scott, *Cases in International Law* (St. Paul, 1922), 291.

⁸⁵ *Sixth International Conference of American States*, *op. cit.*, Article 22.

CHAPTER XVI

TERMINATION OF DIPLOMATIC MISSIONS

Method of Termination—Ordinarily a diplomatic mission terminates by the resignation, recall or dismissal of the diplomatic envoy. This, of course, excludes missions sent for special purposes which end with the fulfillment of their objectives and also missions where the letters of credence are issued for a specific time only. In the monarchical system of Europe the authority of a public minister expires upon the death, abdication or deposition of his sovereign, and he must have a new letter of credence to continue his functions. This is not at present, however, the case with republics where the executive power is permanent and continuous. According to Attorney General Cushing, "in the United States it is clear that commissions do not expire merely by the death or other change in the person of the President. Nor has it been customary to receive or require new credentials to ministers at every new election of the supreme executive chief of the American Republic."¹ However, at the resignation of President Thiers of France in 1873, the larger European states on the Continent insisted that new credentials be sent while Great Britain did not.²

Resignation of Non-Career Diplomats—The question with regard to the automatic resignation of American ambassadors and ministers upon the change of presidents has never been definitely settled. The official instructions are silent on the subject. However, there seems to be little doubt but that by custom and practice all political appointees to ambassadorial and ministerial posts regularly offer their resignations upon a change of administration and such resignations are just as regularly accepted. Although President Theodore Roosevelt was a vigorous opponent of the spoils

¹ 7 *Opinions U. S. Attorney General*, 590.

² Jules Valfrey, *La diplomatie française au 17^{ième} siècle* (Paris, 1881), II, 190.

system, even he asked for the resignation of all the ambassadors and ministers and accepted a considerable number of them³

John B. Jackson, who had been in the foreign service since 1890, upon the election of President Wilson inquired as to whether he should resign. He was informed by President Wilson that he approved the practice which had generally existed that all chiefs of mission should submit their resignations to a new President. Although Mr. Jackson indicated that he would be glad to continue in the service in which he had been continuously for more than twenty years, a successor was appointed purely on a political basis⁴

According to John W. Foster, a career diplomat, by practice if not by law, "ambassadors and ministers are expected to tender their resignations on a change of the home government, and the resignations usually reach Washington in time to be in the hands of the new Secretary of State when or very soon after he assumes office." If the diplomatic representative fails to tender his resignation, he is informed of the appointment of his successor and if even then he does not resign he is recalled summarily.⁵

There have been occasions when the resignation of a diplomatic representative has not been accepted, even though he was the political appointee of a different administration. Perhaps the outstanding example is the case of Maurice Francis Egan, the so-called unofficial diplomatic adviser of three presidents. Mr. Egan was offered diplomatic posts by both Cleveland and McKinley and was appointed Minister to Denmark in 1907 by President Roosevelt. There he remained throughout the administration of Taft, through the first Wilson administration and until President Wilson's second term was half over, illness ending his service. This twelve year term is the longest that any non-career American diplomat has ever served at a single post. Incidentally, Mr. Egan was offered the ambassadorship to Japan by Roosevelt and that of Vienna by both Taft and Wilson, but he preferred to remain at Copenhagen.

Mr. Andrew D. White, appointed Minister to Germany by a Republican President, had the unique experience of having his resignation accepted by the succeeding Republican President in 1881; whereas, while as Minister to Russia under appointment by

³ Allan Nevins, *Henry White* (New York, 1930), 236.

⁴ "Report on the Foreign Service," *National Civil Service Reform League* (New York, 1919), 136.

⁵ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 175.

President Harrison, another Republican, he was invited by President Cleveland, a Democrat, to continue in office. Touched by the cordial letter of President Cleveland, White stayed on at his post for a year longer.

Mr. Henry Wheaton, one of our earliest career diplomats, after serving eight years as chargé d'affaires in Copenhagen, and eleven years as chargé d'affaires and minister to Berlin under Presidents John Quincy Adams, Andrew Jackson, Martin Van Buren, William Henry Harrison and John Tyler, was asked to resign by President James K. Polk. The Prussian Minister, Humboldt, wrote to him in 1846 that the King lamented his removal and could not understand the motives of a government in dispensing with such a minister.⁶

After the election of Mr. Wilson in 1912 Mr. Herrick, American ambassador to France, sent in his resignation according to the usual custom, but it was not immediately acted upon. Although Mr. Herrick knew that Mr. William F. McCombs, Wilson's campaign manager, was slated for the post, it appeared that Mr. McCombs could not make up his mind to accept. In fact, Mr. McCombs went over to Paris and discussed the matter with Herrick and finally decided he could not afford the necessary expense entailed. So it was not until over a year after Wilson's inauguration that Mr. Sharp was named ambassador to France and Mr. Herrick so notified. However, owing to the outbreak of the War, Mr. Herrick was asked to remain at his post even after Mr. Sharp's arrival and he did not leave until November, 1914.⁷

Resignation of Career Diplomats—Since the policy has been adopted of appointing a constantly increasing number of career men to the posts of minister and ambassador, the question arises as to whether they, too, are expected to offer their resignations. According to John Van Antwerp MacMurray, Minister to Estonia, Latvia and Lithuania, and a career man of some thirty years' experience, they are not. Mr. MacMurray states that the question first arose in 1913 when President Wilson came into office inasmuch as about a dozen career men had already been promoted to

⁶ *National Cyclopaedia of American Biography* (New York, 1908), I, 274.

⁷ T. Bentley Mott, *Myron T. Herrick, Friend of France* (New York, 1929), 218-221.

be chiefs of mission. Having communicated among themselves, they decided not to send in their resignations on the ground that it would be inappropriate in those who had devoted themselves to the service in a wholly non-partisan manner. Furthermore, it was unnecessary since the President could displace any officer by the mere appointment of a successor. This precedent was followed by the career men during the administrations of Harding and Coolidge. Unfortunately, at the beginning of the Hoover administration the question was raised at a press conference and Secretary Kellogg taken off his guard declared that the career men would follow the custom of submitting their resignations. As a result, a number of service men felt obliged to submit their resignations.⁸

President Hoover not only refused to accept the resignations of those career men who submitted them, but increased the number of chiefs of mission drawn from the career service. President Franklin Roosevelt has followed the same policy, even to the extent of retaining Ambassador Hugh Gibson, a close personal friend of ex-President Hoover. Mr. Gibson's transfer from Belgium to Brazil, considering the Roosevelt administration's interest in fostering more cordial relations with Latin America, might even be regarded as a promotion.

Resignation Impelled by Expense of Office—Although a change in the politics of the administration has been the reason for the greatest number of resignations in the American diplomatic service, the heavy personal expense entailed has also been an important cause. Inasmuch as at most of the important capitals an ambassador must spend several times his salary, many excellent American diplomats have been forced to resign. Even before the Constitution was formulated, Thomas Jefferson on a special mission to Paris complained of meager salary that compelled him to live by a rigid economy bordering on meanness. In a Congressional investigation held in 1924 John W. Davis declared that, living very unostentatiously in the period directly after the War, he was forced to expend between fifty and sixty thousand dollars, roughly three times his salary. Page, who preceded Davis, had a difficult time financially and finally had to resign because of it.

⁸ J. V. A. MacMurray, "Should Career Men Now Chiefs of Mission Offer Their Resignations to Incoming President?" *American Foreign Service Journal*, X, 79 (February, 1933).

It was said that President Wilson, realizing that from his private income Ambassador Page was unable to maintain his position at St. James's, asked mutual friends to defray the expenses in excess of the government allowances.⁹ Harvey, who succeeded him, was able to endure the financial strain for less than two years. Yet these were all wealthy men.

Career men frequently have had to resign when promoted to more expensive posts. John R. Carter, when promoted from Minister to Rumania to Ambassador to Argentina in 1910, was unable to accept the more expensive post and was compelled to resign from the service.¹⁰ John W. Dulles in 1926 resigned from the Foreign Service because of "the financial burden involved in the acceptance of higher positions in the diplomatic service".¹¹ After eighteen years in the service Francis White, Minister to Czechoslovakia, resigned because he was unable to continue the additional expense beyond his salary.¹²

Disagreement in Policy—Upon certain occasions a diplomatic envoy finds it necessary to resign because he feels it impossible to carry out the policies as laid down by the Department of State. An outstanding example occurred during the period when General Cass was minister to France and Webster was Secretary of State. Cass resigned when the government, by concluding the Webster-Ashburton Treaty, took a stand directly opposed to that which he had taken in regard to the Quintuple Alliance and for which he had been commended. He maintained that such official approval and yet evident renunciation of his actions by the counter policy immediately adopted made it impossible for him to retain his position with self-respect.¹³

Henry Lane Wilson, appointed Ambassador to Mexico during the Taft administration, took exception to Secretary Bryan's conduct with reference to the embassy in Mexico and tendered his resignation twice quite forcibly. However, it was not accepted until Ambassador Wilson was summoned to Washington and prepared a memorandum recommending the recognition of Huerta as Presi-

⁹ Nicholas Roosevelt, "Diplomacy in Rags," *Christian Science Monitor*, February 21, 1934.

¹⁰ *Report on the Foreign Service* (New York, 1919), December 8, 1933, 135.

¹¹ *New York Times*, September 27, 1926.

¹² *New York Times*, December 8, 1933.

¹³ W. T. Young, *Life and Public Service of Lewis Cass* (Detroit, 1852), 171.

dent of Mexico. President Wilson thereupon accepted his resignation and gave as his reasons when asked by the press, that the course which Ambassador Wilson thought it his duty to pursue did not conform with the policy of the administration.¹⁴

John T. DuBois, Minister to Colombia, also resigned at the advent of the Wilson administration. When he was asked by the President why he did so he didn't care to say that it was customary and that Mr. Bryan had a dozen men clamoring for his place. Instead, he told the following story: On his way home he stayed over to the wedding of the American consul at Barranquilla. The bride became very enthusiastic about the American minister and when her husband asked her why, she naively replied that he reminded her so much of her dear old grandfather. "Mr. President," said Minister DuBois, "when I heard that, I knew my hour had struck and I came home and resigned."¹⁵

Recall by the Home Government—A diplomatic representative is always subject to recall by his government either at its own volition or at the request of the foreign government. If he is to be recalled permanently by his own government the ordinary procedure is to give him the opportunity first to resign. An example of this which caused considerable flurry in American history occurred when President Taft requested the resignation of Henry White, at that time Ambassador to France. Mr. White had been in the diplomatic service of his country some thirty years and Roosevelt regarded him as the best man in the United States diplomatic service; in fact, Roosevelt had said as much to Taft and the latter had signified his intention of retaining him. However, it seems that when Taft had visited London on his honeymoon some twenty-five years earlier he had requested that White, then secretary of the legation, procure seats for an important parliamentary debate. When White was not able to obtain them he sent instead some tickets to view the royal mews. Mr. Taft apparently resented this act and never forgot what he regarded as an uncalled-for slight.¹⁶ It might be noted that White had also been asked to resign at the beginning of the second Cleveland administration

¹⁴ *Report on the Foreign Service, op. cit.*, 141.

¹⁵ *Ibid.*, 142.

¹⁶ Nevins, *op. cit.*, 299

because Cleveland's friend, Daniel Lamont, the new Secretary of War, felt that White had slighted him by failing to call upon him during a visit to London.¹⁷

If a diplomatic representative fails to accept the more gracious method of resignation he is subject to summary recall. During one period in American history when the so-called "Tenure of Office Act" was in effect, a diplomat who retained the support of the Senate could not be recalled. When Secretary of State Seward asked for the resignation of Cassius M. Clay, minister to Russia, Clay agreed to resign but his resignation would only take effect upon the arrival of his successor. The Senate refused to approve a successor and Clay, who hated and despised Seward very cordially, remained in office three years after his resignation had been asked.¹⁸

John Lothrop Motley was not so successful in his refusal to resign his position as Minister to Great Britain in 1870. Motley had been constantly violating his instructions with regard to his method of presenting the Alabama claims, preferring the belligerent attitude of his friend, Senator Sumner, to the more diplomatic attitude demanded by President Grant and Secretary Fish. When Sumner wrecked the annexation treaty of Santo Domingo in the Senate, Grant immediately asked for the resignation of Motley. Motley refused to resign. The next day the press announced the appointment of General Schenk and his confirmation by the Senate. Again Motley refused to resign and it was not until several months later when President Grant ordered him to put the legation in the hands of Secretary Moran and to return that he acceded. He regarded his recall as an indignity to which no public minister of the United States had ever before been subjected.¹⁹

Another example of a minister recalled by the United States is that of Herbert W. Bowen, Minister to Venezuela from 1901 to 1905. In his case certain facts came to his attention regarding the business activities of his predecessor, Mr. Francis B. Loomis, who had been recalled at the request of the government of Venezuela. In an interview with the press he gave out some information which President Roosevelt felt to be strictly confidential

¹⁷ Nevins, *op. cit.*, 73.

¹⁸ *The Life of Cassius Marcellus Clay* (Cincinnati, 1886), 407.

¹⁹ Royal Cortissoz, *The Life of Whitelaw Reid* (New York, 1921), I, 189; Beckles Willson, *America's Ambassadors to England* (London, 1928), 354.

Mr Bowen was first offered a transfer, but when he refused he was recalled and dismissed.²⁰

The most striking example of summary recall by the home government in the annals of American diplomacy occurred in 1906 when Bellamy Storer, United States Ambassador to Austria, was recalled by President Roosevelt without the formality of sending a letter of recall. According to the correspondence subsequently published in full, Mrs. Storer had made use of the embassy position to secure a cardinalship for Archbishop Ireland. President Roosevelt had notified Ambassador Storer that his wife must cease her activities and when he failed to carry out his instructions he was recalled by cable and the secretary appointed *chargé d'affaires*.²¹

Recall Requested by the Foreign Government—A frequent mode of terminating an envoy's mission is by recall at the instance of the government to which the diplomatic representative is accredited. It is generally conceded that if the agent has made himself *persona non grata*, or if he has rendered the relations between the two governments strained, or if he has committed some act which makes his further residence at the capital difficult, the state to which the envoy is accredited may justly request his recall. Although there is no legal obligation involved, it is customary for the sending state to grant such a request promptly providing the request has been made in good faith and with sufficient reason. It is expected that the reasons for the recall should be given. If the sending state feels that the envoy has merely carried out his instructions and the recall is due to the objections of the receiving state to the policy of the sending state it may refuse to comply. The receiving state may then dismiss the envoy. On some occasions of this sort the sending state recalls its ambassador or minister and leaves the post in the hands of a *chargé d'affaires* as a mark of its displeasure.

Numerous examples have occurred where American envoys have been recalled at the request of the foreign government. One of the earliest examples was the case of Gouverneur Morris, ap-

²⁰ Herbert W. Bowen, *Recollections Diplomatic and Undiplomatic* (New York, 1926), 295-309.

²¹ *Outlook*, LXXXIV, 901 (December 15, 1906); *Current Literature*, XLII, 21 (January, 1907).

pointed Minister to France by President Washington in 1792. Although a supporter of the Revolution in his own country, Morris was essentially an aristocrat and was unable to endure dispassionately the violent excesses of the French Revolution. He expressed openly his feeling that the new constitutional developments would fail and he made an attempt to secure the escape of Louis XVI from Paris and almost succeeded. On numerous occasions Morris offered asylum to refugees who had good reason to fear death at the hands of the mob. The government of the Republic to whom Morris had never been overly sympathetic, asked for his recall directly after the United States had requested the recall of Citizen Genêt. Washington was forced to comply, even though he approved heartily of Morris' work as minister.²²

While Mr. Buchanan was Secretary of State he had occasion to recall the American chargé d'affaires at the request of the Peruvian government for his decidedly undiplomatic conduct. In a communication to Mr. Jewett Secretary Buchanan informed him that the President regretted that he seemed to be on such unfriendly terms with the Peruvian government:

It is a primary duty of a diplomatic agent to cultivate the good will of the authorities of the country to which he is accredited. Without this his usefulness must be very much impaired. It is impossible that you can reform either the morals or the politics of Peru, and as this is no part of your mission prudence requires that you should not condemn them in public conversation. . . . It is of great importance that the duties of neutrality and friendship should be faithfully performed by that government to the United States and these cannot be successfully enforced by the agency of a minister against whom the Peruvian authorities have conceived so strong a prejudice, whether well or ill founded, as to induce them to make the reiterated request for his recall.²³

A very interesting example of the refusal of the United States to recall an envoy at the request of the accrediting country occurred in the case of Mr. Wise, chargé d'affaires to Brazil in 1846. Mr. Wise had occasion to protest vigorously the action of the

²² Beckles Willson, *America's Ambassadors to France* (London, 1928), 48-61; see also John Bassett Moore, *Digest of International Law* (Washington, 1906), IV, 488-490.

²³ Moore, *op. cit.*, IV, 492-495.

Brazilian government in seizing and impressing an American naval officer. As a result of an acrimonious correspondence the Emperor of Brazil refused to receive Mr. Wise, even when he asked to present a letter from the President congratulating the Emperor upon the birth of a princess. Since the United States supported fully the action of Mr. Wise it refused to recall him, although the Brazilian government requested it several times and Mr. Wise himself had asked for it. The United States finally appointed a new envoy while still sustaining the conduct of Mr. Wise, who departed without asking for an audience to present his letter of recall.²⁴

The Recall of Foreign Envoys by the United States—The United States seems to hold the record among states for the number of occasions when it has requested the recall of foreign representatives. Beginning with the request for the recall of Citizen Genêt from France, a large number of instances have occurred when the United States has felt it advisable to request the recall of foreign representatives accredited to the United States. One of the serious cases was that of the Russian minister, Mr. Catacazy, accredited to the United States during the administration of President Grant. In the instructions to United States Minister Curtin at St. Petersburg, Secretary Fish declared that the Russian envoy had interfered officiously in matters of legislation, he had used the press to influence pending questions and to denounce measures and individuals, he had used abusive and vituperative language towards many persons in public positions, including the President, and had attempted to defeat certain diplomatic efforts between the United States and Great Britain. In this case the recall was delayed until the pending visit of Grand Duke Alexis had taken place.²⁵

Perhaps the most striking instance occurred just preceding the Spanish-American War when a New York newspaper published a private letter written by Señor Dupuy de Lôme, the Spanish Minister at Washington, to a friend in Cuba in which he characterized President McKinley as a "weak . . . would-be politician

²⁴ Graham H. Stuart, *Latin America and the United States* (New York, 1928), 426-431.

²⁵ Moore, *op cit.*, IV, 501-503.

who tries to leave a door open behind himself while keeping on good terms with the gringos of his party." This letter had been purloined from the mails and printed to increase the friction already existing between the two countries. Although this was a very questionable piece of journalism, the Spanish representative was guilty of exceedingly undiplomatic conduct. The United States immediately requested his recall. He did not await action by the Spanish government but handed in his resignation.²⁶

A more recent example which we have cited elsewhere was the request for the recall of Dr. Constantin Dumba, the Austro-Hungarian Ambassador at Washington, who was violating his official position by proposing plans to his government for instigating strikes in American munitions factories. He was also guilty of using an American citizen with an American passport to carry official despatches to the Austro-Hungarian government. The United States requested his recall on the ground that he had been guilty of improper conduct.²⁷

Dismissal of Public Ministers—According to Hershey, the dismissal of a minister should only occur as a last resort, as for example, just before the outbreak of hostilities, or if reparation has been refused for a serious injury or if the minister has been guilty of conduct which cannot further be condoned, or if he has seriously interfered in domestic affairs.²⁸

Although not so many instances of dismissal as of recall are to be found, important examples have occurred. The cases of the Marquis Yrujo, Spanish envoy to the United States in 1805, and of Mr. F. J. Jackson, British minister in 1809, were both cases of request for recall which, because of unnecessary delay upon the part of the home governments, became outright or virtual dismissals upon the part of the United States.²⁹

In the unfortunate case of Lord Sackville-West the British government refused to recall its envoy, but suggested that he be instantly dismissed as this procedure would not end his diplomatic

²⁶ *Foreign Relations of the United States, 1898, 1007-1016.*

²⁷ "Diplomatic Correspondence between the United States and Belligerent Governments—Neutral Rights and Commerce," *American Journal of International Law, Special Supplement*, X, 361.

²⁸ Amos Hershey, *International Public Law and Organization* (New York, 1927), 399.

²⁹ Moore, *op. cit.*, IV, 508-530.

career. Lord Sackville-West had been requested during the presidential campaign of 1888 by a Mr Murchison, presumably a former British subject, to advise him as to the candidate most likely to favor British interests. As the campaign seemed to be waged on the Irish question and on enmity to England as much as on domestic matters, the letter seeking advice was quite understandable. The British envoy, not suspecting a trap, wrote a very innocuous reply intimating that President Cleveland would probably follow a conciliatory policy and he enclosed a press clipping from the *New York Times*, which gave certain reasons for supporting Cleveland. The whole matter was a despicable trick arranged by a Republican to discredit President Cleveland with the Irish party. Upon publication of the Sackville reply the press took up the hue and cry of interference in domestic politics and Secretary Bayard in the interests of President Cleveland's election asked for Lord Sackville's recall. The matter was such a tempest in a teapot that Lord Salisbury wished time to look into the matter. The political crisis demanded immediate action, however, and Lord Sackville was sent his passports.³⁰

A *London Times* editorial on the subject indicated the attitude of British public opinion.

A more ridiculous spectacle has rarely been witnessed in any civilized country than the flurried and unmannerly haste with which the government of President Cleveland has endeavored to put a slight upon this country, obviously for electioneering purposes, before Her Majesty's ministers could deal, one way or the other, with the alleged indiscretion of the British representative at Washington.³¹

The publication by the United States of the infamous *spurious* correspondence of Count Luxburg, Minister of the Imperial German government at Buenos Aires, sent to Germany via the Swedish legation, caused his summary dismissal at the hands of the Argentine government. In this case the German government disavowed their representative and expressed regret at the incident. When more serious violations of the obligations of his diplomatic

³⁰ Beckles Willson, *Friendly Relations* (Boston, 1934), 252-259; *Foreign Relations of the United States, 1888*, II, 1667-1718; *British and Foreign State Papers*, LXXXI, 479.

³¹ John W. Foster, *op. cit.*, 189.

position were discovered, Luxemburg was interned, but later granted a safe conduct by the Allies to return to Germany.³²

Termination of Mission by War—A regular preliminary to war is the termination of diplomatic relations between the countries concerned. Quite often this occurs some little time before the opening of hostilities, but sometimes the declaration of war coincides with the diplomatic rupture. The well accepted rule of international law prescribes that immediately upon a declaration of war the enemy diplomatic agents be given passports and safe conducts to their home countries. If popular opinion has been aroused the belligerents must see to it that special measures are taken to protect the envoy until he shall have crossed the frontier. The French government provided a special train for the German ambassador in 1914 and purposely kept secret the exact hour of its departure. The various Allied representatives at Vienna were all given special facilities and protection until they crossed the frontier.

The British embassy in Berlin was threatened by mob violence when it became known that Great Britain had joined France against Germany. A phone call from Sir Edward Goschen, the British ambassador, to the German Foreign Office brought a force of mounted police and an apology from the German Foreign Minister. A special train was prepared and a colonel of the German guards accompanied the train to the Dutch frontier. The French ambassador, M. Cambon, did not receive such considerate treatment. He was handed his passports and compelled to depart by way of Copenhagen in spite of his request to go by a shorter route. The trip was long and unpleasant in the extreme. The Russian ambassador to Germany received similar treatment.³³

The United States sent the German ambassador, Count von Bernstorff, his passports at the same time that he was notified that diplomatic relations between the United States and Germany were severed. Following this, the United States secured a safe conduct for the German ambassador and his suite from the British and French governments. Arrangements were made for his passage on the Scandinavian-American *S. S. Frederick VIII*. He was

³² *American Journal of International Law*, 1918, XII, 135-140.

³³ James W. Garner, *International Law and the World War* (London, 1920), I, 39-43

escorted from Washington to the boat by official representatives of the State Department and guarded by a special detail of Secret Service officers. He received numerous telegrams, gifts and huge quantities of flowers at his departure.

Ambassador James W. Gerard was not so fortunate in Berlin. His passports were withheld for more than a week, and during this period he was kept without telegraph or telephone service and was not even permitted to receive his mail.⁸⁴ Apparently a false report had been received as to the treatment which had been accorded the German ambassador in the United States.

Neutral Envoys in Belligerent States—It is not generally expected that the outbreak of war should terminate the mission of neutral envoys, even though the capital may be invested or captured. In occupied territory the diplomatic representative is inviolable so long as he maintains a strictly neutral attitude, although his privileges and immunities are subject in practice to the military necessities of the invader. We have already discussed the position of Minister Washburne in Paris in 1870 and Ambassador Herrick in 1914.

When the German army occupied Bucharest in 1917 the German government requested the diplomatic representatives of neutral powers to leave on the ground that the Rumanian government had left and the country was under German military administration. The *chargés d'affaires* of the neutral countries left Bucharest as suggested in a special train provided by the German government.⁸⁵

On the other hand, although most of the diplomatic representatives left Brussels after the occupation of Belgium by Germany in 1914, a few envoys, including Brand Whitlock, Minister of the United States, and the Marquis de Villalobar, Minister of Spain, were permitted to remain and enjoyed their regular diplomatic privileges and immunities. Hugh Gibson, at that time first secretary of the American legation, tells that when the German Chief of the Political Department asked the Marquis Villalobar what his position would be when the Belgium government would be driven completely out of the country, Villalobar replied, "My situation

⁸⁴ James W. Gerard, *My Four Years in Germany* (New York, 1917), 383.

⁸⁵ Sir Cecil Hurst, "Les immunités diplomatiques," *Académie de Droit International, Recueil des Cours* (Paris, 1927), II, 232.

will be the same as yours. We are both representatives of our country in a country not our own" ³⁶ Mr. Whitlock remained until just before the United States entered the War on the side of the Allies. ³⁷

Effect of a Revolution—During the course of a revolution the diplomatic representative is expected to remain at the capital and keep his government accurately informed as to the progress of the revolt. In some Latin American states the United States embassy or legation has served as a sort of center of non-combatant activity. During the period of revolutionary activity in Mexico in 1913-14 the United States ambassador Henry Lane Wilson, although invited by the Mexican government to remove the embassy to Tacubaya for safety, refused on the ground that it was his duty to protect American property and the American colony in the capital. ³⁸

It is impossible to state exactly the status of a diplomatic mission when a successful revolution overturns the established government and sets up a new one in its place. The customary procedure is for the diplomatic envoy to remain with his mission suspended rather than terminated until his government decides whether to recognize the new government. During this period he continues to enjoy his diplomatic privileges and immunities, but maintains no formal relations with the *de facto* government.

In the case of the revolution in Portugal in 1910 the British government delayed official recognition until guarantees had been given and an election had confirmed the stability of the new republic. The British diplomatic mission merely suspended its activities during this period.

Just one week after the Russian Revolution began in March, 1917, David R. Francis, the United States Ambassador to Russia, recommended immediate recognition of the Provisional Government of Prince Lvoff. The State Department agreed and recognition was granted on March 22, the first by any of the foreign

³⁶ Hugh Gibson, *A Journal from Our Legation in Belgium* (New York, 1917), 271.

³⁷ For the complete story of the activities of the United States legation during the war period see Brand Whitlock, *Belgium*, 2 vols (New York, 1919).

³⁸ Henry Lane Wilson, *Diplomatic Episodes in Mexico, Belgium and Chile* (New York, 1927), 260.

governments represented at St. Petersburg.³⁹ When the Lenin-Trotsky Bolshevik government came into power in November at first it made no request for recognition, nor did Ambassador Francis wish to accord it. He even refused to associate himself with a joint request for protection made by the British, French and American military attachés lest it be regarded as indirect recognition.⁴⁰

Subsequently the Bolsheviks reversed their stand and made every effort to secure recognition. When it was not accorded, the various diplomatic representatives who met daily in the American Embassy decided at the end of February, 1918, to leave Petrograd. Francis went to Vologda where he was later joined by several other envoys. From March 4, 1918, Francis designated Vologda as "the diplomatic capital of Russia" and such it remained for the next six months. In a letter to his son dated March 19, 1918, Ambassador Francis declared that he had never recognized the Bolshevik government, but that he had established a quasi-business or working arrangement with it. Although the Bolshevik government on July 23 arranged for a special train to bring the diplomats to Moscow, they refused and insisted upon going to Archangel. Francis remained at Archangel until November 6, 1918, when he was recalled.⁴¹

Termination as Designated by Pan American Conference—
The Sixth Pan American Conference held at Havana February 20, 1928, devoted one entire section to the termination of the diplomatic mission, and it perhaps deserves quotation in full:

The mission of the diplomatic officer ends:

1. By the official notification of the officer's Government to the other Government that the officer has terminated his functions;
2. By the expiration of the period fixed for the completion of the mission;
3. By the solution of the matter, if the mission has been created for a particular question;
4. By the delivery of passports to the officer by the Government to which he is accredited;

³⁹ David R. Francis, *Russia from the American Embassy* (New York, 1921), 91-93.

⁴⁰ *Ibid.*, 183-189.

⁴¹ *Ibid.*, 234-265.

5. By the request for his passports made by the diplomatic officer to the Government to which he is accredited.

In the above mentioned cases, a reasonable period shall be given the diplomatic officer, the official personnel of the mission, and their respective families to quit the territory of the State; and it shall be the duty of the Government to which the officer was accredited to see that during this time none of them is molested nor injured in his person or property.

Neither the death⁴² or resignation of the head of the State nor the change of government or political regime of either of the two countries shall terminate the mission of the diplomatic officers.⁴³

Procedure in Quitting Post—If the diplomatic envoy is leaving a post permanently the established custom requires him to request a farewell audience with the head of the state in order to present his letters of recall. This, as in the case of submitting his credentials, is done by sending a copy of his recall to the head of the state through the minister of foreign affairs, and requesting an audience. The audience is usually private, the envoy presents his letter of recall and receives a recredential or *lettre de récréance* in which the head of the state expresses his regret at the departure of the envoy as well as appreciation of his work. No farewell audience occurs if the mission terminates with a breach of diplomatic relations between the two countries. In the case of Ambassador to Germany, James W. Gerard, who had practically been ostracized by the Kaiser for the year prior to American entrance into the War on the ground that he would not receive the ambassador of a country which furnished munitions to the enemies of Germany, the farewell audience was given by the Chancellor and the Foreign Secretary.⁴⁴

When Ambassador Andrew D. White resigned his post on his seventieth birthday he delayed his departure from Berlin because the Emperor was absent. In his case the special audience included his wife and took place at a private luncheon with the Emperor

⁴² In the case of an envoy accredited to a sovereign, the death of the latter formerly necessitated the recommissioning of the envoy to the new head of the foreign state. General John W. Foster, for instance, was issued new credentials when Alexander II died during Foster's ministry there. See John W. Foster, *Diplomatic Memoirs* (New York, 1909), II, 247.

⁴³ *Sixth International Conference of American States Final Act* (Habana, 1928), Article 25, "Convention on Diplomatic Officers."

⁴⁴ Gerard, *op. cit.*, 321, 385

and Empress. The Emperor presented him with the "Great Gold Medal for Art and Science" and sent him the same day a porcelain vase with his portrait.⁴⁵

The Right to Resign—An American diplomatic officer has the right to resign at any time and his resignation should always be tendered to the President. If he is at his post the resignation regularly takes effect when the officer is relieved by his successor. "In any case a diplomatic officer's official functions do not cease until he has received notification of the appointment of his successor, either by specific instructions from the Department of State or by the exhibition of his successor's commission" ⁴⁶

⁴⁵ *Autobiography of Andrew D. White* (New York, 1905), II, 212. For a description of Ambassador Marye's farewell audience with the Czar see George T. Marye, *Nearing the End in Imperial Russia* (New York, 1929), 469 ff.

⁴⁶ *Instructions to Diplomatic Officers of the United States* (Washington, 1927), II-25.

CHAPTER XVII

CONSULS—CLASSIFICATION AND APPOINTMENT

Consular Conventions—We have already noted that the world is bound up today with a fine network of treaties, a large number of which are devoted to commercial relationships between states. The majority of these treaties of commerce and navigation are bilateral agreements in which specific provision is made for the reciprocal establishment of consulates and for most favored nation treatment as to consular privileges and immunities. Within the last century a number of treaties have been signed whose provisions are related entirely to consular establishments and in the post-War period the so-called consular convention is becoming ever more popular.

The earliest treaties of this sort, three in number, were made between France and the Ottoman Porte in the sixteenth century. During the seventeenth century ten such treaties were signed of which four were between European countries. The eighteenth century saw the number increase to twenty-seven. According to Phillimore, in the first seventy years of the nineteenth century, ninety-five such treaties were signed,¹ and Hall finds fifty-two in the next twenty years.² Between the years 1890 and 1900 we have eighty-seven treaties of commerce and navigation, of which twenty-eight were specifically consular conventions.³ Using these figures as a basis, a conservative estimate would give us over 200 treaties with provisions covering consular regulations signed during the nineteenth century. During the twentieth century a very rapid increase has taken place and Feller and Hudson list over 900 such treaties as having been signed by 1933.⁴

¹ Sir Robert Phillimore, *Commentaries upon International Law* (3rd ed., London, 1882), II, 280 ff.

² W. E. Hall, *International Law*, 4th ed. (London, 1895), 337.

³ United States Department of State, *Catalogue of Treaties 1814-1918* (Washington, 1919).

⁴ A. H. Feller and Manley O. Hudson, *Diplomatic and Consular Laws and Regulations* (Washington, 1933), II, Appendix.

The post War consular conventions almost invariably provide for full reciprocity and most favored nation treatment as regards the establishment of consulates. They permit the enjoyment of certain consular privileges and immunities and provide for the exercise of consular functions. The widespread tendency to conventionalize consular regulations had tended naturally to standardize them, and for this reason a well established consular law may be said to exist today.

All Modern States Maintain Consulates—It is a generally conceded principle of international law that states may maintain consuls in the commercial centers of friendly powers with whom they carry on normal diplomatic relations.⁵ Even if this principle were questioned, the interchange of commodities and the intercourse between states has developed to such an extent that enlightened self-interest would require a state to accept the practice. It would be difficult to find a state today in the civilized world which would refuse to receive consular representatives from a friendly state. In fact, there are practically no fully sovereign states which do not send as well as receive consuls. States like Canada, Australia, South Africa, New Zealand, and the Irish Free State utilize the British Consular Service. Danzig makes use of the consular representative of Poland except when some special interest requires direct commercial representation. The United States, during the time when it had no diplomatic relations with Soviet Russia, utilized the services of Turkish consulates in Russia for the exercise of certain American legal and notarial formalities. The mandated areas are represented commercially by the mandatory powers. Although the international city of Tangier does not send consuls, it receives consuls from most of the important Powers and the foreign consuls practically constitute the city government.

Classification of Consuls—Only states can send consuls and as a general rule only nationals may serve as professional consuls or *consuls de carrière*. The United States, Great Britain and France as a rule appoint only nationals to consular posts.

⁵ Although, as many authorities declare, states are not obliged to receive consuls, the custom is so well established that the affirmative statement seems justified.

Career consuls or *consules missi* are public officials of the sending state who are not permitted to engage in private business of any kind and as public functionaries they enjoy certain prescribed privileges and immunities. Commercial consuls or *consules electi* are chosen by a state from its own citizens engaged in business in a foreign country or even at times from foreign nationals. The honorary consuls may not claim the same privileges and immunities as the professional consuls, but social distinctions are rarely made.

A state is unrestricted in its choice of consular representatives and the receiving state has an equal right to refuse to receive an unsatisfactory appointee.

According to the Constitution of the United States the President with and by the consent of the Senate appoints consuls general, consuls, vice consuls of career and language officers.⁶ According to the laws and regulations now in force in the United States, consular officers comprise (1) foreign service officers assigned to duty as consuls general, consuls, vice consuls and language officers; and (2) non-career officers such as vice consuls not of career and consular agents. These latter are appointed by the Secretary of State.⁷

The general term consular officer includes consuls general, consuls, vice consuls and consular agents. The word consul is also used in a general sense to denote a consular officer exercising the functions of consul general, consul or vice consul. With respect to rank and duties consuls are usually divided into five classes: consuls general, consuls, vice consuls of career, vice consuls not of career and consular agents.

Consuls General—Consuls general are usually consuls with supervisory powers over one large consular district or several smaller districts. For example, the American consul general in London exercises supervisory jurisdiction over all of the British Isles except the Irish Free State. The consulate general in Paris supervises all of France. The consulate general at Lisbon takes care of the Azores and Madeira as well as Portugal. The provinces of Manitoba, Saskatchewan, and Alberta are under the jurisdiction of

⁶ United States Constitution, Article II, Sec. 2.

⁷ *Executive Order* of June 8, 1931

the consulate general at Winnipeg. The United States possesses thirty-five consulates general which exercise supervisory powers ⁸

There are certain posts, however, which are ranked as consulates general where no supervisory powers are exercised. For instance, the post of Geneva, Switzerland, is a semi-diplomatic post and as such is ranked as a consulate general. Other posts are so important that even within the jurisdiction of a more important office they are classed as consulates general. Hamburg and Munich are such examples

Consuls general are the immediate superior officers of the consular officials within their respective jurisdictions. They exercise their supervisory powers usually by correspondence, although permission may be granted in appropriate circumstances for them to visit the consular offices in their jurisdiction for the purposes of inspection and report. With the exception of accounts, a consular officer regularly transmits all of his correspondence with the Department of State under open cover through the consul general in charge of his district.

Where there is no consul general with supervisory powers, the diplomatic representative exercises a general supervision over consular officers within his jurisdiction. Diplomatic and consular missions are expected to keep each other informed on all essential matters, and to maintain an attitude and practice of mutual helpfulness.⁹ By an executive order of April 4, 1924, President Coolidge instructed representatives of the United States in foreign cities to meet in conference at least fortnightly under the chief diplomatic officer, or if there is none, under the ranking consular officer. Any political information which comes to the attention of a consul is transmitted to the diplomatic representative through the supervising consul. The one notable exception to this rule seems to be the consul general at Geneva, who reports directly to the Department of State, instead of through the minister at Berne. However, the fact that the League of Nations sits in Geneva makes this city a very exceptional post and since the United States is not officially a member, it is essential that complete reports of the

⁸ *Consular Regulations of the United States* (March, 1933), Sec. 94. Originally compiled in 1896 but now revised and published in loose leaf form, each page dated, henceforth cited as *Regulations* with the date appearing at the bottom of the page.

⁹ *Regulations* (February, 1931), Sec. 101, note 1.

League activities reach the Department in the shortest possible time.

Vice Consuls—Vice consuls are divided into two categories: vice consuls of career and those not of career. American vice consuls of career are foreign service officers commissioned by the President as vice consuls. They are regularly given a diplomatic as well as a consular commission and are subject to transfer at any time into the diplomatic service. Vice consuls not of career are commissioned by the Secretary of State as occasion may require, usually from the clerks at the consular offices. They receive compensation as clerks and are not eligible to appointment as foreign service officers without passing the prescribed examinations. As of the *Foreign Service List* of January 1, 1935, there were 243 vice consuls not of career in the American consular service, of whom five were serving as accounting and disbursing agents. Both career and non career vice consuls must be American citizens and may not engage in private trade.

Consular Agents—In addition to these officers it is necessary sometimes to appoint an official known as a consular agent in an out-of-the-way place where the duties are not sufficient to warrant the appointment of a full time vice consul. Such consular agents are appointed by the Secretary of State usually upon the nomination of the principal consular officer. Although wherever practicable American citizens only are appointed as consular agents, in some places it is necessary to appoint a national of another state.

There have been occasions when a foreigner has been so eager to serve as a consular representative of a foreign nation at a small post in his home country that he has become a citizen of the country which he wished to represent. An excellent example is the case of Mr. Simon Damiani, a Corsican, who came to the United States, was naturalized and then returned to his native land and became the American consular agent in Bastia. He served there in this capacity for more than thirty years and brought up his children as Americans, although none of them had ever been in the United States or could speak a word of English.¹⁰

¹⁰ See Lee Meriwether, *The War Diary of a Diplomat* (New York, 1919), 24, 36.

Ralph Nevill, who served as secretary to Sir Henry Drummond Wolff, British minister to Persia, tells of meeting an English consular officer in a port on the Black Sea who had an English name but a decidedly Levantine appearance. When Mr. Nevill asked why the servant, who wore a makeshift European uniform, did not wear the picturesque costume of the region, the consul replied that it would be prettier but that he liked to see someone about in a dress reminding him of home. Home was England, which he had never seen.¹¹

Consular agents receive their compensation through fees collected by them, but no consular agent may collect more than \$1,000 a year for his services.¹² Consequently, contrary to the rule for other consular officers, a consular agent is permitted to engage in a trade or profession. As of January 1, 1935, there were thirty-three consular agents in such small posts as Cananea, Mexico; Galway, Ireland; Christchurch, New Zealand; Paramaribo, Netherlands Guiana; and Djibouti in French Somaliland.

Consular Clerks—Finally, all consular offices have one or more consular clerks whose duty it is to perform such functions as are prescribed by the consular officer in charge. Consular clerks are appointed as far as is practicable under civil service rules and regulations and preference is given to American citizens if they possess the proper qualifications. A considerable number of clerks serve as vice consuls not of career and their efficiency and the high quality of their work in responsible positions merit a more worthy recompense than they often receive. The Act of February 23, 1931, generally known as the Moses-Linthicum Act, has improved their condition materially.

Language Officers—Language officers are foreign service officers who are assigned to certain countries, particularly in the Far East and Near East, where they may study and perfect themselves in prescribed foreign languages. Once they have passed the required examinations they are eligible for advancement in the service on the same basis as other foreign service officers.¹³

¹¹ Ralph Nevill, *Unconventional Memories* (New York, 1923), 123.

¹² *Regulations* (July, 1931), Sec. 23, note 1.

¹³ *Ibid.*, Sec. 17.

Inspectors—Foreign service inspectors are foreign service officers who have had considerable training and experience and who are detailed to visit and report on the work of diplomatic and consular offices. All consular offices of the United States by law are supposed to be inspected at least once in every two years. The inspectors' suggestions and directions must be followed and in urgent cases the inspector may suspend the principal consular officer and administer the office temporarily.¹⁴ During the year 1934 three foreign service officers, Homer Byington, Nathaniel P. Davis, and Joseph E. Jacobs served as inspectors.

Consular Commission—Every American foreign service officer, whether he be assigned to the diplomatic or consular service, must take a prescribed oath of office and file with the Department of State a bond equivalent to one year's salary. Formerly only consular officers were required to file a bond because of their responsibility in handling public moneys, but since interchangeability was inaugurated by the Rogers Bill, all appointments are to the foreign service.

As an official authorization from the home government that he is empowered to perform his official duties, a consul receives from his government a commission, sometimes called letters patent or *lettres de provision*. The commission is signed by the head of the state and gives the name, rank and authority of the consular official. In the United States the commission is signed by the President, countersigned by the Secretary of State and carries the Seal of the United States. The Convention on Consular Agents adopted at Havana February 20, 1898, provides that the commission shall contain "the name, the category and the authority of the appointee".¹⁵

The consular officer does not receive the commission directly but it is sent by the Secretary of State to the American diplomatic representative in the country where the post is located. Upon receipt of the consul's commission the diplomatic envoy applies to the foreign office of the country to which he is accredited for an *exequatur*, an official document issued by the receiving state which authorizes the consul to perform his functions.

¹⁴ *Regulations* (July, 1931), Sec. 16.

¹⁵ *Sixth International Conference of American States Final Act* (Habana, 1928), Article 4, "Convention on Consular Agents"

Nature and Form of the Exequatur—The exequatur is in fact an executive order of the foreign government which recognizes the official character of the consular officer and grants him the privileges or immunities conferred upon his office by treaty, law or custom and permits him to exercise his official duties. In the United States exequaturs are signed by the President, countersigned by the Secretary of State, and bear the Seal of the United States; they are issued only to foreign consuls who come with regular commissions signed by the chief executive of the appointing state. Subordinate officers receive a certificate of recognition signed by the Secretary of State.¹⁶

The form of the exequatur varies; usually it is a distinct document, as in the United States; sometimes it is merely the word *exequatur* written upon the commission, as in Hungary, again it is a notice in the official government organ, as in Germany. Sometimes no exequatur is issued to a vice consul. "The true nature of the exequatur is that of a contract between the foreign state and the sending state and its object is to permit the consul to take advantage of its service and use it in the interest of both states."¹⁷

All current treaties and conventions provide for the deliverance of the exequatur without payment and it is the rule today even in the absence of a treaty. In Turkey, however, it was formerly an expensive procedure to obtain an exequatur or *berât*, as it was called.

Once the exequatur is granted the local authorities are instructed by the receiving government to recognize the official status of the consular official and see to it that he enjoys such privileges and immunities as he may be entitled to under the law.

Refusal of Exequatur—The receiving government possesses an unqualified right to refuse an exequatur to a foreign consul, nor does it have to give the reasons for its action.¹⁸ According to Secretary of State Blaine, however, "the undoubted right of

- ¹⁶ John Bassett Moore, *Digest of International Law* (Washington, 1906), V, ¹⁴

¹⁷ E. C. Stowell, *Le Consul* (Paris, 1909), 208 ff.

¹⁸ Julius I. Puente, *The Foreign Consul* (Chicago, 1926), 28; Stowell, *op. cit.*, 209.

withholding an exequatur is . . . an extreme one. In this country it is rarely resorted to."¹⁹

On a number of occasions the United States has appointed consular officers who have been refused exequaturs. In 1855 the government of Nicaragua refused an exequatur to Mr. Priest, who had been appointed United States consul at San Juan del Sur, on the ground that he had published a private letter which was objectionable.²⁰ Great Britain refused to grant an exequatur to Major Haggerty, a naturalized Irishman, whom General Grant had appointed as consul to Glasgow in 1869, on the ground that he had been engaged in the Fenian revolts.²¹ The Austro-Hungarian government refused to receive an American politician, a Czech by birth, who was appointed consul to Prague in 1895 because he had denounced conditions in Bohemia in a speech made on a Bohemian holiday at the World's Fair Exposition in Chicago.²² An American consul appointed to Beirut was rejected by Turkey because he was a clergyman and might be too closely connected with the missionaries.²³

When the Chinese government first opened its ports to American trade, inasmuch as the United States did not have available trained men, it appointed merchants as consuls. The Chinese government did not look with favor upon this procedure and refused to grant exequaturs to these merchant consuls, believing that such appointments were not permitted under the treaties. The Chinese objections were easily overruled by the American representative, Anson Burlingame, who pointed out that the French and Russians followed a similar practice.

Although the right of refusing to accept a foreign consul would seem to be an accepted principle of international law, the treaties which put an end to the World War formulate a contrary rule for the defeated Powers. By specific provisions the Treaties of Versailles, St. Germain, Neuilly, and Trianon require that the states of Germany, Austria, Bulgaria and Hungary promise in advance to approve the designation of consuls general, consuls,

¹⁹ Moore, *op. cit.*, V, 28.

²⁰ *Ibid.*, 28.

²¹ W. E. Hall, *A Treatise on International Law* (Oxford, 1895), 333.

²² Carlton Bailey Hurst, *Arms above the Door* (New York, 1932), 51.

²³ Eugene Schuyler, *American Diplomacy* (New York, 1901), 96.

vice consuls and consular agents of the Allied Power. The Allied Powers, however, do not grant a reciprocal right.²⁴

Revocation of Exequatur—From the instances which have occurred it would seem that there have been more cases of revocation of consular exequaturs than of refusal to grant them originally. One of the early cases in American diplomacy occurred in 1793 when the exequatur of Mr. Duplaine, French vice consul at Boston, was revoked because he had opposed with armed force the enforcement of the laws of the land in seizing a vessel out of the hands of an officer of justice.²⁵ In 1856 the exequaturs of three English consuls in the United States were revoked because it was alleged that they had attempted to recruit men for the British Army to serve in the Crimean War.²⁶ In 1861 the United States revoked the exequatur of consul Bunch of Great Britain on the ground that he had violated the provisions of the Logan Act, which forbade any unauthorized person to engage in correspondence with a foreign state. Great Britain, although claiming that the charge was inapplicable to the case, did not question the right to withdraw the exequatur.²⁷ In this case, however, other reasons entered into the matter because the French consul, who had acted jointly with the British consul in the matter of corresponding with the Confederate states regarding observance of the rules of the Declaration of Paris, did not have his exequatur withdrawn.

An instance occurred in 1897 in Guatemala which brought from United States Secretary of State Sherman a clear enunciation of the accepted rule of law. The President of the Republic had ordered the withdrawal of the exequatur of Mr. Florentin Souza, United States consular agent at Champerico. The legation, being uninformed, asked to be acquainted with the reason for the government's action, at the same time stating that another person would take over the agency for the present. The Department of State said: "You were not strictly in your right in making this request. As a general rule of international intercourse a government can

²⁴ Paul Fauchille, *Traité de droit international public* (Paris, 1926), I, Pt. iii, 123.

²⁵ Moore, *op. cit.*, V, 19.

²⁶ Hall, *op. cit.*, 333.

²⁷ Moore, *op. cit.*, V, 20.

withdraw a consular exequatur without assigning any reason. If it voluntarily assigns cause for removal it invites discussion of the sufficiency thereof and defensive evidence can be offered with a request for a reconsideration. If it offers no reasons it can not be compelled to give them. Your inquiry, therefore, should be treated as a request for information rather than as a demand for proof of good cause, and it is hoped the Guatemalan government will so construe it.”²⁸

The Convention on Consular Agents adopted at Havana in 1928 follows the generally accepted rule. It stipulates that “the territorial government may at any time withdraw the consul’s exequatur, but except in urgent cases, it shall not have recourse to this measure without previously attempting to obtain from the consul’s government his recall.”²⁹

Delay in Receiving Exequatur—If for any reason there is a delay in receiving the exequatur the consul may when so directed by the Department of State proceed to his post and enter upon the discharge of his duties upon receiving permission from the proper local authorities to act in his official capacity until the exequatur arrives. Under these circumstances he should immediately notify the diplomatic mission and then if he fails to obtain permission from the local authorities or if there is an appreciable delay in receiving the exequatur, he is instructed to telegraph to the Department.³⁰ If, however, it is the intention of the state not to grant the exequatur, as in the case of Turkey refusing an exequatur to the United States consul at Erzerum until more than two years after his appointment,³¹ the question is then between the foreign offices of the two states. The situation is covered by the Havana Convention as follows: “The consul can be recognized as such only after having presented his commission and obtained the exequatur of the state in whose territory he is to serve. Provisional recognition can be granted upon the request of the legation of the consul pending the delivery in due form of the exequatur.”³²

²⁸ *Foreign Relations of the United States, 1897*, 338

²⁹ *Sixth International Conference of American States, op. cit.*, Article 8.

³⁰ *Regulations* (April, 1929), Sec. 49

³¹ *Foreign Relations of the United States, 1898*, lxxxiii.

³² *Sixth International Conference of American States, op. cit.*, Article 6.

CHAPTER XVIII

CONSULAR FUNCTIONS IN THE INTEREST OF COMMERCE AND NAVIGATION

The French statesman Talleyrand, who was also an accomplished diplomat, declared that the functions of a consul were infinitely varied and that even though one might have been a clever public minister one had to know a great deal more to be a good consul. In fact, when we take into consideration the numerous and varied duties of a consul it would appear that he must not only be a "Jack of all trades" but at the same time be a master of all of them. And, contrary to the status of the diplomat, in carrying out his functions the consul is not only bound by the statutes and regulations of his own country, but he is also subject to the laws of the country in which he performs his official duties.

Consular Activities in the Promotion of Trade—One of the very essential functions of the consul today is to promote his country's trade within the consular district in every legitimate way possible. According to Baron Heyking, a former consul general of Imperial Russia, "the maintenance of their country's economic interests requires the entire attention of consuls; it forms the principal boulevard of their activity."¹

A survey of the diverse regulations and instructions issued by the various governments bears out this statement. For example, the instructions to Brazilian consuls which are particularly comprehensive on this point, require consuls:

To promote within their territory the commercial and industrial interests of Brazil; to observe and communicate to their government the commercial and economic development of the country in which they function with all explanations useful for the progress of Brazil; to expose the obstacles and difficulties which prevent the development

¹ Alphonse de Heyking, *Les principes et la pratique des services consulaires* (Paris, 1928), 88.

of commerce with Brazil and to make suggestions; to demand within their competence from the local authorities all possible measures for the benefit of Brazilian commerce; to promote the creation of Brazilian chambers of commerce and give their support and collaboration to those existing if advisable; to organize and maintain in the consulates, sets of samples of the principal Brazilian products furnished by the Government or by private persons; to take measures for the prompt publication of everything that refers to Brazilian industries; to maintain a register of commercial and industrial firms which operate in Brazil. . . .²

The instructions to Danish, Mexican, Norwegian and Spanish consuls are almost equally explicit and comprehensive. The Netherlands instructions state that the principal duty of the Netherlands consular officer is to further the interests of the commerce, the industry, the agriculture and the shipping of the Netherlands.³

The *United States Consular Regulations* list four ways in which the consular officer may promote the national economic interests of the United States:

1. To endeavor to create each in his own district a situation favorable to the importation and sale of American goods;
2. To submit frequent reports on commercial and other economic subjects, both voluntarily and in reply to particular instructions from the Secretary of State;
3. To reply to the private inquiries of American citizens touching commercial and industrial matters;
4. To lend aid and advice to American citizens having or contemplating business in their several districts.⁴

The *Regulations* further emphasize that trade promotion should be upon the development of the export trade of the United States. However, the attention of the consul is called to the fact that mutuality of trade interests and the benefits of a well balanced commercial exchange make it desirable that American merchants and manufacturers be assisted in purchasing abroad raw materials and goods which are not in direct competition with American goods.

² A. H. Feller and Manley O. Hudson, *Diplomatic and Consular Laws and Regulations* (Washington, 1933), I, 147-148.

³ *Ibid.*, II, 863

⁴ *Regulations* (December, 1928), Sec 589

In order to fulfill these duties in the most efficient manner the consular officer is advised to familiarize himself with the main facts constituting the economic life of his district. This will require a study of his predecessor's reports and all published material pertinent to the subject available in his district. Coincidentally the consul is expected to make personal contact with leading local businessmen and officers. In order to facilitate the importation and sale of American goods the consular officer should be familiar with and be able to point out the products of merit usable in the district. He should also display statistical and other publications relating to American trade, directories of manufacturers, and encourage the use of the consulate as a center of information.

The late Frederick Van Dyne, when consul at Kingston, Jamaica, established a commercial reading room which had on file some eighty different American trade journals, magazines and newspapers, numerous trade directories and thousands of catalogues of American manufacturers. The consulate thus became a sort of information bureau for American products and was visited daily by local merchants and buyers who wanted information concerning American goods. When the city constructed an opera house the city architect consulted the consul who was thus enabled to give information regarding American products which might be used and to make known to American manufacturers and builders a possible market.⁵

When American chambers of commerce exist they should receive the consul's support and coöperation and when such organizations do not exist and the need is evident the consul may take an active part or even the initiative in their creation. Carlton Bailey Hurst, when consul in Barcelona, found that no American Chamber of Commerce had ever existed in Spain. Thinking the time ripe for such an organization he called a meeting of all American residents of Barcelona and Spanish merchants interested in import and export. An organization was formed, quarters engaged and Mr. Hurst helped furnish them by donating a hardwood table top that he had just received from the head forester of the Philippine Islands.⁶

⁵ Frederick Van Dyne, *Our Foreign Service* (Rochester, New York, 1907), 166-167.

⁶ Carlton Bailey Hurst, *Arms above the Door* (New York, 1932), 265.

Finding New Markets—The consul must always be on the look out for new outlets for his country's products. He must utilize his knowledge of the existing market situation in order to visualize the possibilities of new markets and once they are obtained he must make them known at home. He must also see to it that the national products are packed in such a way as to reach their destination in their original condition. Mr. Stowell tells of an American consul in Brazil who obtained an order for an American firm amounting to several thousands of dollars, but unfortunately the advice of the consul with regard to packing was not followed and the merchandise arrived in a very bad condition.⁷

When Consul Edward J. Norton was put in charge of the United States Consulate at Sydney, Australia, in 1919 it was his hobby to see how many profitable trade connections he might make. Since the Australian market was surprisingly misty in the minds of many manufacturers, few companies would send out direct representatives. Mr. Norton decided to work up certain markets which seemed to have prospects of success, such as the electrical, the drug and chemical, the agricultural equipment, and office materials fields. He gave local representatives the fullest coöperation in advice regarding shipping, tariffs and credit and he joined various organizations to secure better contacts. The results were so striking that the English controlled press made a collection of all trade letters sent by the consulate and launched a campaign against what was called "The American Onslaught".

A few examples of specific results may be cited. Consul General Goding at Guayaquil, Ecuador, reported a trade opportunity which brought an American firm a million-dollar contract. Consul Philip Holland at Basel, Switzerland, was able to obtain an order of \$14,000 worth of shoes for an American firm in competition with foreign houses. Consul Frederic Dumont helped bring about a shipment of 35,000 tons of coal to Ireland while he was consul at Dublin. Dudley G. Dwyer, while consul at Maracaibo, succeeded in placing several agencies for American goods in Venezuela, one resulting in an order for ten American automobiles.⁸

It is also expected that the consul will be alert to all contracts

⁷ Ellery C. Stowell, *Le Consul* (Paris, 1909), 94 note.

⁸ Wilbur J. Carr, "What Your Consuls Do," *American Consular Bulletin*, January, 1922, 6.

open to tender which might interest national firms. These include all public and private construction work, such as construction of roads, bridges, railways, telephones, buildings and sanitation projects. Even though the principal contracts are restricted to national companies, subcontracts may often be let. Both the diplomatic and consular officers of the United States in Peru were for many years exceedingly helpful in placing and keeping the large governmental contracts in the hands of American companies.

Trade Reports—In performing this function of trade promotion the consul must supply accurate information in the form of commercial and financial reports. Such reports should be based upon official statistics and be presented with the utmost impartiality. A consul should also analyze and interpret his figures so as to make them as valuable as possible. The United States requires its consuls to submit a comprehensive annual report on the development of commerce and industry in his district for the current year. This report places the emphasis upon the foreign trade, particularly any changes affecting the export trade of the United States. A summary of leading commodities imported should always be included as well as the official statistics of imports and exports when available.⁹

A consul is also expected to prepare periodical and special reports during the year in order that the Department of State may be kept fully informed on all matters of interest to the American business-man. The periodical reports are made at the request of the Department. In addition to these reports the consular officer is expected to prepare from time to time voluntary reports on his own initiative concerning any matters which might be useful to the government or the business community. These voluntary reports afford an unlimited opportunity to the consular officer for original investigation and analysis along lines interesting to himself and profitable to the country. The *Regulations* cite a number of subjects which should especially engage the attention of consuls in making voluntary trade reports, such as: general business conditions, the financial and exchange situation, crop reports, mineral and forestry development, markets for American products, tariff and customs regulations, credit and sales conditions, advertising,

⁹ *Regulations* (December, 1928), Sec. 597.

packing, particular lines of trade and local products marketable in the United States. Prompt information should always be given regarding expositions, particularly those devoted to commercial or technical matters¹⁰

In the seaport of Hamburg, which is the leading port of entry for Germany, commercial reports are of particular importance. Consul General Erhardt at that post required weekly reports on hide and skin markets; monthly reports on dried fruit, lumber, rice, meat, and tobacco, and on commercial failures; quarterly reports on ergot, cotton, gasoline and oil prices and laid up shipping; semi-annual reports on certain drugs and German crude rubber consumption, and the regularly called for annual reports. In addition to these were the voluntary weekly reports entitled "Hamburg Trade Notes"; monthly voluntary reports on such products as the walnut market, mineral oil trade, grain, rubber, fresh fruit, cocoa stocks; semi-annual voluntary reports on oils and fats, canned fruits and vegetables, dried fruits, lumber; and annual voluntary reports upon fresh fruit, lumber, fish, soy beans, the Hamburg coffee market, and the market for American salmon caviar

In certain areas trade reports are much more difficult to make than in others. In Poland, for example, where there is only the one consular office in Warsaw and where the mining and steel industry is concentrated in Upper Silesia 200 miles away, the textile industry in Lodz, 90 miles away, and the shipping center, Gdynia, 250 miles away, the time and expense required for traveling necessarily limits personal contact. Furthermore, there are no trade press or specialized industrial publications nor associations of individual trade and industries to furnish information readily such as are found regularly in the older industrial states of Western Europe

For the fiscal year ending June 30, 1934, the consulate general at London made 450 *World Trade Directory* Reports,¹¹ 265 voluntary trade reports and seventy-seven called for trade reports. In addition to these reports, sixty-three trade opportunities were listed and 1,273 replies made to trade inquiries.¹²

¹⁰ *Regulations* (March, 1932), Sec. 600, note 1.

¹¹ Information regarding all firms in a consular district doing export business, —reports made through the Department of State to the Department of Commerce.

¹² From *Summary of Business for Year Ending June 30, 1934* (London, England).

Trade Inquiries—Replies to questions from American firms were formerly made by the commercial attachés, but this work has now been assigned to consular officers. For example, an American firm manufacturing mirrors will write to the consulate at Copenhagen asking for names of firms and wholesalers who might be interested in their product. The consul not only sends such a list but he also includes a list of names of the jobbers with whom the real business will have to be done and the situation is carefully explained to the manufacturer. If there is no possible market, the consul will save the manufacturer further expense by frankly stating the market conditions.

Another case is that of a salesman for a firm manufacturing steam engines who comes to Paris and immediately visits the American consulate general. He wishes to get in touch with French firms which might be interested in his product and at the same time find out what restrictions are laid upon its sale and distribution in France. A vice consul experienced in this field is sent out to look up the dealers in machinery products. He telephones personally to those most likely to be interested. He gets their credit rating through Dunn or the banks or by a questionnaire. The quotas and tariffs are looked up and a memorandum prepared giving all the essential information to the agent. Oftentimes prices of similar products are included. If there is no possibility of sale, sufficient information is given to show that a careful study of the question has been made.

As perhaps might be expected, the consul often receives what to him are amusing inquiries in the requests by firms for information regarding the selling possibilities of their products. Consul Herbert Williams when consul at Panama received a letter from a refrigerator company which requested information not only regarding the sales possibilities of their product but also as to how much of the ice used in Panama was natural.

The letters from American firms often ask not only for advice as to market conditions and demand for the product but also request the names of agents or places to give or receive credit. In replying the consul may never recommend a business concern; he is only permitted to give a list of the establishments which might be interested. However, if the business relationship turns out badly, the consul is sometimes blamed for the result.

Trade Promotion Services Appreciated—The great value of the work done by consular officials to promote American trade is shown by the following letter sent to the Paris consulate general by a New York firm in 1932. "We appreciate your detailed report regarding the market possibilities of Pyrethrum Extract Pine Oil and Insecticide in France. Your reports are most complete and the information contained is very valuable to us. . . . We have written to all the firms whose names you were good enough to give us. Your letters contained as much or more detailed information than would have been possible to receive from a member of our own organization had he been in France. We feel proud that our American Consular Service has built up such an efficient organization."

In his efforts to augment the trade of his nationals the consul must be careful to avoid any appearance of interfering with local interests. In 1922 the British government withdrew the exequaturs of the American consuls at Newcastle on the ground that the consular officials had abused their official position and had definitely injured British commercial interests. The Foreign Office declared that it had documentary proof establishing the fact that British travelers, desirous of visiting the United States, were refused consular visas unless they agreed to make the trip on boats belonging to American companies.¹³

Protection of Trade—The consul has a large number of duties which might well be classed under the general heading of protection of trade and navigation abroad. Under this heading would naturally come the various duties of a consul with regard to merchant vessels and seamen, tasks which occupy a considerable amount of his time. A consul must pay close attention to the local laws and administrative decrees concerning tariffs, customs, port administrations, warehousing and transportation, and see to it that no discrimination shall occur in their administration to the detriment of his country's commercial interests.

An excellent example of trade protection by joint diplomatic and consular efforts is cited by Ambassador Joseph C. Grew, at that time Minister to Switzerland. Some years ago Lewis W. Haskell, the American Consul, began to receive complaints from the

¹³ *Journal de droit international, Clunet*, XLIX, 870.

local importers of American automobiles that they could no longer compete with European cars owing to a newly applied customs ruling which levied a very high packing duty on the packing cases or containers in which the cars were imported. American cars on account of the long sea voyage had to be packed in cases whereas European automobiles could enter the country done up in burlap on flat rail cars or else could be driven in. The result was, in effect, a discrimination against American automobiles which seemed likely to drive them wholly from the market of this country leaving the field free for their European competitors. The consul promptly brought the matter to the attention of the minister, who spent several weeks in making representations of a forcible character and finally brought about the removal of the objectionable ruling. It would be impossible to compute in dollars and cents the gain to the American automobile industry by this intervention, but it may be said that both the Department of State and the legation received a great number of letters from automobile manufacturers, exporters and chambers of commerce, all over the United States, expressing their appreciation of the service rendered.¹⁴

Trade Protection under Treaty Provisions—A very important consular duty is to see that treaties of commerce and navigation are strictly observed. The consul should be familiar with any and all such treaties concluded between his own state and the state to which he is accredited. The majority of commercial treaties contain what is known as the "most favored nation" clause, and the consul must insist that his country receive as liberal treatment under this clause as any other nation obtains. A consul is usually permitted by treaties or conceded the right by usage to complain to local authorities in case of infraction of any treaty drawn to protect his country's commercial interests.

An interesting instance of trade protection under treaty provisions occurred in the international city of Tangier. The customs officials by a higher valuation arbitrarily raised the customs duties on imported flour in violation of the provisions of the Algeciras

¹⁴ Address by Joseph C. Grew, Under Secretary of State, at the Annual Banquet of the American Manufacturers Export Association, Hotel Astor, New York, November 12, 1925.

Convention to which the United States was a signatory. United States consul general Maxwell Blake protested vigorously and proved that the French contention as regards the estimated value of flour was fallacious and could not be sustained. Although the authorities refused to refund moneys already collected, they agreed to accept the authenticated figures of American importers as to valuation in the future.

An important case of trade protection arose in Berlin in connection with the formation in 1934 of a new fuel cartel for concerns operating in the German market. It appeared that the Consolidated Oil Corporation, an American concern which was interested in the German Sinclair Petroleum Company, would have its interests seriously jeopardized if its quota under the previous cartel arrangement were reduced, as was planned under the new arrangement. Inasmuch as the government insisted that all firms would be bound by the terms of the new cartel whether they entered or not, the Sinclair Company appealed to the American Consulate General. Consul Geist requested the German authorities to take into consideration the representations of the American oil firm and to provide such measures as would ameliorate its position in order to protect the legitimate investments of American capital which had been made through this company in Germany.

An English company imported sample illustrated stamp albums from a Boston company and the shipment came in with no tariff. However, the second consignment of nearly two tons was held up as being forbidden by the British Revenue and Customs Act, which prohibited representations of postage stamps or similar marks. As manufacturers of stamp albums in Great Britain were allowed to make such representations, both the British and American firms protested. Mr. Gowen, the American consul, interviewed the British officials and found that the first consignment was let in through an error. The officials pointed out that they had the right to seize the present shipment, but were willing to permit its reexportation. But as it had already been paid for, this would not help the British firm. Seeing the unfairness to the British concern, the officials finally agreed to allow the importation of the one shipment. Both the British and American firms were profuse in their thanks to the American consulate general.

Consuls Settle Trade Disputes—The American consul often is able to settle trade disputes between American and foreign firms. Assistant Secretary of State Carr tells of a case where Consul Bevan at Bahia transmitted a draft of several hundred dollars through the Department of State to an American firm in settlement of a trade dispute with a Brazilian business house. In similar fashion a shipment of American goods to a Brazilian firm was unsatisfactory and when American Consul Pickerell complained, an investigation showed that a mistake had been made and a credit of \$5,000 was sent to the Brazilian company by the American firm.¹⁵

A recent shipment of American rice to Marseilles that had been bought and paid for had a bad odor and taste. As a result the consignee had to dispose of it for less than half the price he had paid. Consul Thompson investigated and found that the case was *bona fide* and that the shipment had probably been spoiled by its proximity to kerosene in the boat. Although the consul was not able to raise the question of cause, there would be no further orders for American rice until an adjustment had been made. The American firm could not afford to lose its market and through the mediation of the consul a satisfactory solution was reached.

Certification of Invoices—One of the most frequent duties of a consul is the certification of consular invoices for shipment of foreign goods exported to the United States. American customs authorities require a certified consular invoice for every shipment which with the duties imposed amounts to more than \$100 in value. These invoices are prepared on special forms which may be obtained at the consulate. The invoice, which is certified in triplicate—sometimes in quadruplicate, describes the merchandise and declares its market value in the country of production or exportation. The invoice must be signed by the manufacturer or exporter who makes a declaration that the facts as declared are true. The consular official in making his certification must carefully scrutinize the shipper's declarations to be certain that the contents of each container is clearly stated, that the description of the merchandise is exact and that sufficient information is given to permit the customs officer to make a fair appraisal. He must also see to it

¹⁵ Wilbur J. Carr, "What Your Consuls Do," *American Consular Bulletin*, January, 1922, 7.

that all articles and packages are clearly marked to indicate their country of origin. One of the triplicate invoices is filed at the consulate, the original is delivered to the person producing the invoice or it may be mailed by the consular officer direct to the consignee and the third is forwarded to the port of entry to which the goods are addressed. A quadruplicate copy may be delivered to the shipper.

A recent Turkish law required a certificate of origin to be presented to the customs officers before the goods could be cleared. However, such information was not always easy to obtain. A practice has been utilized by the American consulate at Constantinople whereby the shipper appears before the consul, swears to an affidavit stating the origin of the goods, and although this is no more than his belief as to the facts, the affidavit is accepted by the customs authorities.

Although a number of articles no longer require a certified invoice since 1931, such as household effects used abroad, automobiles and horses brought in for temporary purposes, crude forest and agricultural products and crude minerals, newsprint paper, wood pulp and news reel films, a large consular office will certify thousands of invoices annually. For example, for the calendar year 1933 there were 3,622 consular invoices issued in Zurich, Switzerland; 7,021 in Cologne, Germany; 19,047 in Paris, France; and 25,473 in London, England. The ten leading products invoiced in London were furs, tin, tea, chemicals, provisions, wines, spirits, precious metals, books, printed matter and antiques. Close coöperation must always be maintained with the United States Treasury attachés abroad who are equipped to investigate all cases of undervaluation or other efforts to evade requirements.

A much publicized incident of this sort occurred in France in 1925. The Tariff Act of 1922 permitted the United States to prohibit the importation of merchandise of a foreign manufacturer who refused to permit an inspection of his books by an American official to obtain an accurate figure as to the cost of production. When an American Treasury agent insisted upon examining the books of Boue Sœurs of Paris, manufacturers of chemises, he was refused. The United States forbade further importation of their product and a veritable *guerre de chemise* followed, which was only settled by a ruling of the United States Attorney General on

October 21, 1927, to the effect that it would not be necessary under the Tariff Act to conduct investigation of production costs abroad, and would cease in France after February 1, 1928.

In the old days the certification of invoices was the principal function of American consuls. In a volume devoted to information concerning American consular posts prepared in response to a Senate resolution in 1901 a survey of the replies concerning the duties indicates the certification of invoices in many of the smaller ports was the sole function performed. For example, in Ecuador consular officers were stationed at Guayaquil, Bahia de Caraquez, Esmeraldas and Manta. At Guayaquil 397 invoices were certified and 300 to 400 business inquiries answered, twenty-eight bills of health issued and a few seamen taken care of. In Bahia the sole duty performed was the certification of 104 invoices. In Esmeraldas ninety-two invoices were certified and twenty trade inquiries received. In Manta the work was limited to the certification of fifty-two invoices.¹⁶ George Horton tells of a consulate on the Syrian coast presided over by a former saloon keeper who regularly greeted his callers with: "Well, gentlemen, what'll it be, an invoice or a cocktail?"¹⁷

Merchant Vessels—It is a well established custom that merchant vessels engaging in trade carry certain papers indicating the vessel's nationality, its ownership, the nature of its cargo and its destination. They include the ship's official certificate of registry, its charter, its shipping articles, and the crew list. A number of states, including Germany, the Netherlands, and Sweden require the masters of vessels to deposit their ships' papers with the consul while in port. The custody of these papers gives the consul information which is useful to him in dealing with the port authorities and in aiding in the enforcement of the customs and quarantine regulations of the port and of his country.

The *Consular Regulations of the United States* provide that every master of a vessel of American ownership sailing from an American port should deposit his register and sea letter with the United States consular officer upon arrival at a foreign port. Quite

¹⁶ Senate Document No. 411, 57th Congress, 1st Session (Washington, 1902), 106-109.

¹⁷ George Horton, *Recollections Grave and Gay* (Indianapolis, 1927), 87.

customarily the crew list and shipping articles are deposited with the register. The requirement for the deposit of ships' papers includes all vessels engaged in commerce, also registered American pleasure craft, but excludes fishing and whaling vessels. The nationality of the vessel is determined by the certificate of registry and the flag.

A vessel which puts into a foreign port solely to obtain information does not come within the provisions of the law. Nor would a vessel driven in by a storm be required to deposit its papers.

It is the duty of the consul to see to it that the master of an American vessel is notified of this requirement in case he fails to deposit his papers. If he refuses, the consul sends a certificate of the fact to the Department of State with pertinent information and evidence and a suit will then be presented by the government against the vessel.

The consular officer is authorized to return the ship's papers whenever the master produces the clearance of his vessel from the proper port authorities and complies with the laws of the United States regarding the seamen on board. If a master sails without his papers, the consul must transmit them without delay to the Department of State with a statement of the circumstances.¹⁸

The consular officer has certain duties regarding a vessel sailing to the United States whether it be foreign or American. Its manifest, a document giving a list of the contents of the cargo, the names of the consignees, the passenger list and other information, must be submitted for inspection to the consul before sailing.¹⁹ Also, every vessel sailing to an American port must before clearing obtain from the consul or medical officer a bill of health which shows that all necessary sanitary regulations for the vessel, cargo, passengers, and crew have been complied with.²⁰ Sometimes before issuing such a bill of health both the vessel and cargo must be disinfected by fumigation.

The consul also is instructed to receive all protests which may be presented by the master, the seamen or the passengers of any American vessel arriving in a port under his jurisdiction. Any declaration or statement so made will be duly authenticated by the

¹⁸ *Regulations* (February, 1935), Secs. 175-188.

¹⁹ *Ibid.*, Sec. 185.

²⁰ *Ibid.*, Sec. 375.

consular officer under the official seal and will receive full faith in any court of the United States.

As an aid to ships' officers, the consul must keep posted in a conspicuous place the pilot charts and all notices to mariners published by the hydrographic office of the Navy Department. This includes information regarding new channels, new buoys, new lighthouses and lightships; also changes that have been made in the location of any of these aids to navigation. The consul is also expected to forward without delay any information to the Department of State which may be utilized for the benefit of the seafarer or to decrease the dangers of navigation.

The consular officers are required to furnish sanitary reports of ports and places designated by the Secretary of the Treasury. These are made weekly and in accordance with forms prescribed by the Treasury Department. If a disease or epidemic breaks out within the consul's district, he must telegraph or cable the State Department immediately. In Tangier for many years the consular officers were in complete charge of health and quarantine regulations for the city and even today the American consul general performs certain functions of this character.

Consular Jurisdiction over Wrecked, Stranded Vessels—If by chance an American vessel may be wrecked or stranded on the coast within the jurisdiction of the consul, he is required, as far as the laws of the country permit, to take proper measures to protect the vessel and cargo, take inventories and provide for storage. He cannot, however, take possession on occasions when the master, owner or consignee is present. In the case of salvage, the local courts should permit the consul to receive the effects and the remainder of the property after salvage is paid.

The Treaty of Friendship, Commerce and Consular Rights between the United States and Germany signed December 8, 1923, provides that:

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the

occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property.²¹

A consul is also authorized if requested to make a survey of a wreck or a damaged vessel in order to protect the master of the ship who has been placed in a difficult and sometimes critical position. In such cases a survey carried on under the supervision of a consul is of more weight than one instituted and supervised solely by the master. An instance is told of the *S. S. Lake Elkwood* reaching the port of Rio de Janeiro in a damaged condition and falling into the hands of unscrupulous repairers. The United States consul was finally called upon to remove the master and assume charge of the vessel. This he did over the protest of the master and saved the government considerable money. When the case was later brought before the courts the action of the consul was upheld.²²

Rewards to Deserving Seamen—In case a consul receives authentic information that seamen or citizens of the United States have been rescued from shipwreck by the master or crew of a foreign vessel, he should send a statement immediately to the Department so that the President of the United States may make suitable acknowledgments. If the consul judges that master and crew are deserving of immediate reward, he may give sums of from five dollars to twenty-five dollars in gold without previous reference to the Department of State. If no cash awards are made the consular officer may recommend to the President that suitable testimonials be made; these consist of watches, binoculars, and gold medals, and are purchased from a special appropriation made by Congress for this purpose.²³

Protection of Seamen—American seamen are regarded as particular wards of the United States government and many laws are found in the statute books for their protection. When a vessel flying his country's flag arrives in port the consul is regarded as possessing a sort of supervisory jurisdiction over it, and any action of the port authorities should follow consultation with him and

²¹ *United States Treaty Series*, No. 725, Art. XXVIII.

²² Wilbur J. Carr, "What Your Consuls Do," *American Consular Bulletin*, January, 1922, 8.

²³ *Regulations* (February, 1931), Sec. 327-8.

should not be concerned with the internal administration of the vessel. Unless the peace of the port is disturbed, consuls are usually granted jurisdiction over disputes between seamen or between master and seamen which may have arisen in the course of the voyage.

The master of the vessel is required by law to give the crew full liberty to lay their complaints before the consular officer and ordinarily they should be allowed to come ashore for this purpose. The consular officer is regarded as the adviser and counsel for the seaman and he must see to it that the latter has the fullest opportunity to submit his complaint. If the consul has any reason to believe that a seaman is restrained in any way, he must go on board at once to permit his appearance. The complaints of seamen are quite varied and are concerned with such matters as the unseaworthiness of the vessel, a lack of essential equipment, the poor quality or insufficient quantity of the provisions, harsh treatment on the part of the master and unreasonable deduction of wages.

Consuls often find the problem of settling disputes between master and seamen one of their most exasperating duties. Masters resented any decision which found against them, and the men felt that justice was always on the side of the ship and the master. The following is a typical case as related by a consul with long experience in seaport posts. A seaman would appear claiming that he had been abused criminally while on ship. According to his story he had been handcuffed, kicked and starved. A number of his fellow seamen would substantiate his claim. The testimony—always differing very considerably—would be taken, oaths would be sworn. The captain would be asked to appear. Finally, after a whole day's hearing, the matter would sift down to the real facts of the case. The master had cursed out the man and given him a kick for what appeared to be near insubordination. The dispute was a draw and the consul's routine work still remained to be done.

The Signing of Seamen—Every master of an American merchant vessel who signs on a seaman in a foreign port is required by law to engage the seaman in the presence of the American consul stationed there. Otherwise the shipment is void and the seaman may leave the service at any time and recover the highest wage

paid at the port of shipment. The consul must assist the seaman to understand the contract which he signs, because of grave abuses that have arisen through the shipping of seamen by unauthorized shipping agents. According to law, a seaman is not bound by a clause in a contract which was not read or explained to him.²⁴ In signing a seaman, the consul must be careful to determine the exact nationality and status of the man. This is usually done by a thorough examination of his discharge papers, identification card and credentials.

In case of desertion or casualty resulting in the loss of one or more seamen, the master is expected to ship an equal number of seamen of approximately the same rating upon arrival at port. A master may hire seamen in a foreign port for one or more round trips, or for a definite time, for any destination. The only restriction is that in order to comply with the Merchant Marine Act of 1928 (Sec. 405) the master must as far as possible see to it that throughout the period of the foreign voyage at least half of his crew shall be citizens of the United States.

All conditions of contract as to the service and pay of seamen are supposed to be contained in the shipping articles, and the consul may demand to see them whenever he thinks it necessary to the proper discharge of his duties towards seamen. The shipping articles are always liberally construed in favor of the seamen.

The Discharge of Seamen—The discharge of American seamen in foreign ports is another important function of a consul. A consular officer is authorized by law to discharge a seaman in a foreign port upon his own application or upon that of the master of the vessel if the seaman has fulfilled his contract, or if he is entitled to a discharge according to the general principles of maritime law. The *Regulations* cite thirteen different reasons for the discharge of seamen but the most common are the following: misconduct of the seaman, unusual or cruel treatment by the master, mutual consent, completion of the shipping agreement, violation of the articles of shipment, sickness or inability of the seaman to perform his duties, and upon the sale of an American vessel abroad. It is the general policy of the laws of the United States to discountenance the discharge of seamen in a foreign port, there-

²⁴ *Regulations* (February, 1931), Secs. 189-191.

fore the consular officer must make careful inquiries and satisfy himself that good and substantial reasons exist before granting the application for discharge; slight or venal offenses, or a single act of insubordination are not sufficient grounds. According to the *Regulations*.

The consular officer must be satisfied that the officer or seaman is either absolutely incompetent to perform the work he has contracted to do; that he has been guilty of such acts of insubordination as to make him dangerous to a man of ordinary firmness; or that his habitual misconduct amounts to unfitness for duty or, if an officer, he has been guilty of habitual cruelty.²⁵

When discharging a seaman the consular officer must make an exact accounting of all wages received from the master and turned over to the seaman. This necessitates a checking of the master's books, verifying his figures and checking against the slop account. Inasmuch as the consul is held responsible for the full payment of all wages due including arrears, the most accurate accounting is required. It has been the custom of certain consulates at the seaman's request to retain his wages in trust so that he may not be tempted to spend them too recklessly. This is an extra-legal practice and often occasions the consulate considerable annoyance, but is of the greatest service to the seaman.

Consul Carlton Bailey Hurst tells of a thrifty seaman who deposited over \$700 at the consulate for safekeeping. But in this case temptation proved too strong, and every morning the sailor appeared at the consulate to draw a hundred dollars. Within a week his hard-earned savings of years had disappeared.²⁶

The discharge of seamen sometimes brings about a very difficult situation for the consul to handle. Former consul Lorin A. Lathrop recounts his experience as a young consul in a French port when the crew of a merchant vessel malingered the three days required to complete their shipping agreement. They then demanded a substantial increase in wages. As it was war time and no substitutes were available, the captain was at their mercy. The consul, lacking the usual forms, wrote a contract on a large sheet of wrapping paper worded in legal phraseology but so ambigu-

²⁵ *Regulations* (February, 1931), Sec 213.

²⁶ Carlton Bailey Hurst, *op cit*, 244-246.

ously that it might mean almost anything. As a result, the seamen found at the next port that their contract might mean discharge instead of higher pay. They appealed to the consul general, but he sustained the young consul.²⁷

Another case requiring even more drastic action occurred when the *S. S. Poughkeepsie*, owned by the Shipping Board, entered Bermuda in distress. The crew refused to perform their duties and demanded their discharge. The master, unable to cope with the situation, placed the matter in the hands of the consul. He held that the crew had conspired to mutiny, had them arrested, and shipped a new crew in their places. The vessel was saved considerable time and expense and the court upheld the consul.²⁸

Death of Seamen—In case a seaman dies on board ship the master takes charge of all of his money and effects. At the first port the consul should be notified; he may, if he considers it expedient, take over the money and effects and also the wages due. The effects may be sold, and all moneys from sale and wages must be remitted to the district court having jurisdiction over the port of departure. A full report is always sent to the Department of State.

Relief of Seamen—A final duty which the consul performs for seamen is to provide for their subsistence when found destitute within his district, and their transportation home at government expense. Not only are merchant seamen who are citizens of the United States entitled to relief, but the law includes foreigners regularly shipped on an American vessel in a port of the United States. Inasmuch as only destitute seamen are eligible, and the consul must make the final decision, he often finds himself in a very delicate and disagreeable position. The law would seem to be very lenient towards the seaman but the opinions of the Comptroller General are quite the reverse. For example, the law provides that an incapacitated seaman discharged from a hospital shall receive proper care, maintenance and transportation to the United States, even though the seaman may have been placed in the hospital by the master of a vessel, and not by the consul. Nevertheless, the

²⁷ Lorin A. Lathrop, "The Recollections of a Consul," *The Saturday Evening Post*, May 9, 1925, 49.

²⁸ Carr, *op. cit.*, 8

Comptroller General has ruled that such expenses should not be incurred by the consular officer when it is possible to return the seaman on one of the same company's vessels.²⁹

In providing subsistence the consular officer is expected to provide the simplest and most economical lodging and sustenance and the cheapest clothing which is serviceable and durable. Medical care should always be procured in a hospital and as economically as possible. Transportation is afforded only when it is impossible to procure employment, and impracticable to require the shipping company which owns the vessel of last service to supply the transportation. American vessels should be used whenever possible and they are compelled by law to afford transportation at very low rates: ten dollars on sailing vessels for voyages of less than thirty days, and two cents per mile over the established route for steam or motor vessels.

If the seaman be a deserter certain penalties are provided and the consul is authorized to make a certification of desertion at the request of the master after he has investigated the case and is satisfied that the desertion was deliberate and not connived at by the master or caused by cruel treatment. Many countries have authorized the solicitation of assistance from local authorities to return deserting seamen, but the United States has eliminated this provision from her treaties.³⁰

According to Raymond Fisher, former American consul stationed at Sydney, Australia, almost fifty per cent of office correspondence in the Australasian consulates had to do with the problems of shipping and seamen. To rid the port of American beach-combers and to provide relief wisely were the two most difficult tasks. In the latter case many seamen knew the regulations so well that they could exploit the provisions granting relief. For example, a seaman would ship from San Francisco to Newcastle, be discharged, and being destitute, demand relief. Just before he was given opportunity to ship out on an American boat, he would drift to Sydney and again obtain relief.

Even the granting of relief presented problems. If the seamen

²⁹ *Regulations* (February, 1935), Sec. 275, Note 2.

³⁰ This is necessarily a very brief treatment of a highly technical subject. An excellent and detailed study has been made by Consul Charles Bridgham Hosmer entitled *Administrative Functions of Consular Officers under American Admiralty Jurisprudence*, M.L.L. thesis, George Washington University, 1929.

were sent to a seaman's home they prolonged their stay by remaining away when there was a chance to ship. If sent to a private family for room and board they almost always got into some sort of trouble. If they were well fed they lingered in port, if not fed sufficiently they complained loudly. In Sydney drunken and violent seamen came to the office in such numbers that the consulate lease was cancelled and it was with the greatest difficulty that a satisfactory building was obtained.

The report from the London Consulate General for the year 1933 showed seventy seamen shipped and fifty-three discharged, and twelve formally declared deserters. Only one seaman had been relieved during the year at a total cost of \$.96, whereas in the year 1929 sixteen seamen had been relieved at a cost of \$199.99. The maximum number for the office was in 1920 when 159 seamen were relieved at a cost of \$2,776.³⁰ By way of comparison a report for the year 1900 for the same office showed thirty-six seamen shipped, forty-six discharged, and three appealing for relief who were sent home.³¹

According to law it is not possible to take out of a seaman's wages the amount spent on his relief. When certain seamen of the American vessel *Hilo*, wrecked near the Hawaiian Islands, reached Honolulu in a destitute condition, the American consul general supplied their wants and shipped them back to San Francisco. When they were discharged and paid off in San Francisco the shipping commissioner at the consul's suggestion deducted the amount expended by the consul. The commissioner was forced to refund the amount held to the seamen.³²

Lest it be thought that all seamen are nuisances and a drain on government funds, the following relief case deserves mention. In a despatch to John Bassett Moore, Assistant Secretary of State in 1898, a consul described the applicant for relief as intelligent, gentlemanly and well posted as a seaman; he carried extra clothing and his complaints had foundation. His request for transportation home was approved by the consul who provided the transportation costs—the sum of ten cents to carry him back to the United States from Canada.³³

³¹ *Senate Document No. 411, op. cit.*, 350.

³² John Bassett Moore, *Digest of International Law* (Washington, 1906), V, 146.

³³ *American Foreign Service Journal*, III, 85 (March, 1926).

CHAPTER XIX

CONSULAR SERVICES RENDERED TO NATIONALS

Among the most varied and interesting functions of a consular officer are those which may be grouped under the general category of services rendered to nationals. According to Pradier-Fodéré: "It is a consul's duty to see that his nationals' rights are respected in a foreign land and to take all measures which he deems necessary and useful to accomplish this end; it is through its consuls that the state extends its protecting arm over the entire surface of the globe."¹

Consular conventions regularly place the protection of nationals as one of the first duties of a consular official. In order to carry out this function he is authorized to intervene in behalf of his nationals with the local authorities. If satisfaction is not accorded the consul is then justified in taking the matter up with the diplomatic officers of his government. In the absence of a diplomatic representative the consul may address himself directly to the national government of the country.²

Variety of Services Rendered—The greatest number of cases of services rendered to nationals, however, are not those which require intervention with the local authorities. They are, rather, the giving of assistance or advice by the consul to citizens who get into difficulties through ignorance or carelessness or unfortunate circumstances. Oftentimes the consul who is familiar with local laws and customs can extricate his troubled fellow countryman from a very embarrassing situation with a word in the right place. On other occasions the problem may require considerable time and attention and entail both worry and expense.

The great variety of duties which an American consul abroad

¹ P. Pradier-Fodéré, *Traité de droit international public* (Paris, 1888), IV, 555.

² For a typical provision embodying the protection of nationals see Article XXI of the Treaty of Friendship, Commerce and Consular Rights of December 8, 1923, between the United States and Germany, *U. S. Treaty Series*, No. 725.

performs in behalf of his countrymen may be appreciated by the report for a three months period of a representative consulate. Consul General Coert du Bois made the following summary of aid and protection cases which were handled by the United States Consulate General in Naples for the first quarter of 1933:

1. Thirty-eight instances of visiting personages who, by reason of their position or their mission abroad or letters which they carried, were entitled to some form of entertainment on the part of the consular staff, the lack of which would have reflected on the United States government; these included Congressmen, government officials, and other prominent Americans;
2. Thirty-four American citizens who happened to be abroad during the banking moratorium found themselves short of local currency with which to meet bills; the consul rendered aid in cashing paper, obtaining reasonable exchange or making arrangements for continued credit;
3. Twenty-four students desiring to enter the University of Naples, art or medical schools, or to find singing or music teachers, or private schools for their children, needed documentation or intervention
4. Nineteen American travellers sought assistance at the consulate because of difficulties with steamship and railroad companies. These problems included the loss of tickets, the lack of accommodations and the need for special care of invalids.
5. Nineteen Americans got into trouble with the authorities through violation of police or customs regulations or through lack of proper credentials.
6. Seventeen Americans were assisted in obtaining proper medical advice and treatment, and in making arrangements for hospitalization and operations.
7. Fourteen requests for advice regarding family affairs or property were made, largely by elderly American ladies.
8. Eleven Americans were afforded protection against overcharge, persecution, annoyance, and even blackmail.
9. Thirteen destitute Americans (not seamen) were assisted.
10. Ten citizens sought advice on local marriage laws, the required documentation and the formalities for publishing the banns.
11. Ten Italian-Americans were assisted in avoiding unwarranted induction into the Italian army.

12. Nine requests for assistance in locating relatives of Americans in Italy or the United States were handled.
13. Seven tourists were helped to obtain Italian driving licenses and permits to operate American cars in Italy.
14. Six Americans were aided in finding employment, a difficult matter.
15. In five cases intervention with other consuls was sought on behalf of American travellers.
16. Five ladies were given shopping assistance, including the services of an interpreter.
17. Four destitute Americans (not seamen) were repatriated.
18. In four cases the necessary assistance was given to deranged Americans.
19. Four Americans making protracted visits obtained houses, villas and other places of domicile through the consulate.
20. Three American journalists wanting stories, photographs and interviews were assisted.
21. In three instances lost, delayed or sequestered baggage was recovered.
22. The care taken in the disposition of two cases of suicide or attempted suicide completes the summary of aid and protection cases handled by the Naples Consulate during the first quarter of 1933.

During the fiscal year ending June 30, 1933, the United States Consulate General in London undertook 1,475 protection cases and 351 welfare and whereabouts cases. This work involved a large amount of correspondence and investigation as well as numerous applications and representations to local municipal, customs, income tax, immigration, police, and prison authorities.

Protection of Citizens—The *Consular Regulations of the United States* provide that "consular officers should countenance and protect American citizens before the authorities of the country in all cases in which they may be injured or oppressed; but at the same time they should impress upon such citizens their obligation to respect the laws of the country where they may be residing or traveling" ³ The consul is instructed to use every endeavor to settle all disputes in an amicable manner. If he finds it necessary to interpose with the governmental authorities, he is advised to follow

³ *Regulations* (March, 1933), Sec. 149.

the suggestion made by Thomas Jefferson to consuls in 1790: "Let all representations be couched in the most temperate and friendly terms, never indulging in any case whatever a single expression which may irritate."⁴

The question as to whether an official remonstrance in affairs of government was permissible to a consular officer was raised by the Spanish governor-general of Cuba in 1895. Consul General Williams at Havana had made representations touching the prolonged confinement of certain American citizens without trial and in contravention of existing treaties. Governor General Martinez de Campos replied that since consuls were not invested with diplomatic functions, they could not make official protests, but were limited to making inquiries and reports. Secretary of State Olney refused to accept such an interpretation of consular duties, and declared that the right of consuls to intervene with the local authority for the protection of their countrymen from unlawful acts was an accepted doctrine of international law and conventionally established by treaties. Secretary Olney thereupon pointed out that the existing treaty between the United States and Spain of February 27, 1870, made specific provision for such right of redress.⁵

Protection of Americans in Nazi Germany—This same question was raised more recently in connection with the protection of American citizens in Berlin against Nazi outrages. In this case the point was made that since the United States had a diplomatic representative in Berlin, the question of protection should be one of diplomatic rather than consular representation. However, since outrages were not confined to Berlin, and Consul General George Messersmith and later Consul Raymond Geist had been constantly intervening in cases at various ports of Germany before the question was raised, the embassy preferred to act only in cases which required diplomatic action. The matter was settled by a reference to the German American Consular Convention of December 8, 1923, which provided that consular officers might address national, state, provincial or municipal authorities for the purpose of protecting their countrymen.⁶

Numerous cases of protection afforded to Americans in Ger-

⁴ *Regulations* (February, 1931), Sec. 77, note 1

⁵ *Foreign Relations of the United States, 1895, II, 1209.*

⁶ *United States Treaty Series, No. 725, Art. XXI.*

many since the advent of the Hitler régime might be cited, the following instances may serve as representative examples.

An American went to Germany to visit his brother. He was arrested and accused of spreading propaganda against the German government in the United States. The American consul in the district learned of the case and investigated. He found that the German had in his possession a German life insurance monthly published in the United States in which appeared certain articles critical of the New Germany. A woman at the *pension* where the American was staying borrowed the paper and loaned it to a neighbor, and the unfortunate lender, who had never been guilty of the slightest word or act against Germany, was thrown into jail. Upon urgent representations from the American consul of the district and the Consulate General at Berlin, the American was released.

Another much more serious case which received wide newspaper publicity ⁷ and enlisted the aid of United States congressmen and senators was that of Walter Orloff, a Brooklyn medical student at the University of Greifswald, accused of communistic activities. The matter was brought to the attention of Consul General George Messersmith by two American fellow students Mr. Messersmith immediately got in touch with Orloff and with the authorities. It was alleged that Orloff, who frequented communistic headquarters, was attempting to reorganize the Communist Party in Germany. Apparently the police had a letter written by Orloff stating he was a Communist and eager to assist the Party. A Prussian decree made complicity in communistic and other subversive activities punishable with death.

In letters to the consulate Orloff declared he was well treated but Consul Geist made a visit to the jail and found the youth terror stricken and quite badly treated. At first the consulate attempted to get Orloff deported, but the authorities declared it was too late since the wheels of justice had already started turning. The consulate thereupon emphasized the severity of the accusation, the youth of the prisoner, his long imprisonment before the consulate had learned of his incarceration, his ill treatment, the fact that no counsel had been allowed him, and the effect the case was having on American public opinion. The German authorities finally agreed upon deportation and Orloff was sent back to the United States.

⁷ See files of the *New York Times*, July 23–August 19, 1933.

In spite of valiant efforts made by the United States consular officials to protect Americans during this very difficult period in Germany, they were often criticized by the very people to whom they had afforded protection. Two Brooklyn Jews who were in Berlin when the boycott commenced were arrested by police at a boarding house which they visited to see an acquaintance. The arrest was made at the request of the proprietress of the pension who became suspicious, she said, because of their appearance and their broken English.

They were put in jail and refused permission to see the consul. The next afternoon they were released and came to the consulate to protest. At the request of the consul general they made an affidavit as to their treatment. The consulate promised them no further difficulties would be encountered and that protests would be made to the proper authorities. The two men left Germany, but before leaving gave out a story which was not only false as regards the reason for their arrest, but also an accusation against the consulate for not giving them courteous attention, and a threat to bring suit against Consul General Messersmith. Later a still more erroneous version was given to the press in New York. The version was contrary to their own affidavit and the *New York Times* correspondent in Berlin later agreed that the version in his own paper was false.

In this instance the Consul General had received the two men courteously and had promised them protection. He immediately made representations to the German police and obtained promises of no further interference with their movements. The State Department instead of criticizing Consul General Messersmith rewarded him with the position of Minister to Vienna for his excellent services in Berlin on behalf of Americans.

Violation of Local Laws and Customs—In some of the cases where Americans have been involved in difficulties with the authorities abroad the matter seems very trivial to the American but extremely serious from the standpoint of local law and custom of the foreign country. In such cases public opinion at home is inclined to blame the diplomatic or consular official for a failure to act in a sufficiently effective manner in behalf of his nationals. The much discussed case of the five Americans who were arrested and held

for months without bail in the Palma City jail on the Island of Majorca illustrates the point. The alleged offense was an assault upon a member of the Civil Guard, such a serious crime from the Spanish point of view that the accused were not eligible for bail and were placed automatically under military jurisdiction. Yet the story told by the Americans made the matter a rather easy one to understand and would have been settled by a very moderate penalty in the United States.

A young American returning from a café engaged in an altercation with a hotel doorman who sought the aid of the Civil Guard. When a woman onlooker remonstrated with the Guard he struck the youth, breaking his eyeglasses and knocking him over. The woman's husband rushed up and when the Guard struck his wife with a sword, hit the guard in the eye with his fist. The whole party was arrested, including two others who were merely bystanders.⁸

The occurrence took place on June 4, 1933, and American Ambassador Bowers at Madrid received the first report on the case on June 17. He investigated and not receiving satisfactory information, sent Claude Dawson, United States Consul at Barcelona, to Majorca to investigate. Mr. Dawson reported that the military judge refused to consider any extenuating circumstances and insisted upon holding the accused in prison. The State Department now made a strong protest to the Spanish government through Ambassador Bowers regarding the harsh conditions of confinement and the long delay in granting a trial. The five unfortunates were finally released on bail on July 20 and acquitted by a military tribunal on October 26.⁹

There are occasions, however, where the American traveler is clearly to blame and the American consul is expected to obtain mercy rather than justice. An American girl traveling from St. Moritz to Berne put her feet shod in heavy hiking boots on the seat across from her own. When the train guard objected she took them off, but protested at Swiss methods. A little later he found her again with her feet on the seat. An altercation arose and he is alleged to have seized them and placed them down none too gently. She threw a book at his head and a little later found

⁸ *New York Times*, July 17, 1933.

⁹ *New York Times*, October 27, 1933.

herself in jail. She was able to get in touch with the consul, who had to pay her fine to get her out. Under the circumstances the consul could get no satisfaction from the authorities, and received considerable criticism from the girl for his failure to obtain an abject apology.

Sometimes in spite of the consul's warning rash Americans will risk involving themselves in serious political disturbances in foreign countries. In the summer of 1935, Consul general Thomas D. Bowman in Mexico City tried in vain to prevent two American students from participating in a student movement to oust the political boss of the State of Tabasco.

The Consul's Duties Frequently Arduous and Unnoticed—

A consul is willing to undertake difficult journeys and undergo considerable hardship in order to fulfill the requirements of his office. Shortly after the close of the War an American came into the consulate at Cairo in great distress. His wife had disappeared after kissing him goodbye in the morning and no trace of her had been found. Consul George Wadsworth immediately made inquiries through agencies of information which were available to the consulate. He learned that she had been seen with a dragoman with a bad record. The consul then checked up departure statistics with the Egyptian police and learned that a caravan had left that morning. He obtained the services of a police officer and the two began a long chase over the desert. They finally caught up with the caravan before nightfall and the police officer took the dragoman in charge while the consul with difficulty persuaded the woman to accompany him. Since she was unwilling to return to her husband the consul placed her in a home run by an American woman. Again she disappeared and this time the consulate located her in a cocaine dive. Once more she was brought back and by threats of arrest and deportation she was forced to take passage home on a steamer. Her husband paid her passage and the consul put the woman on board. The husband followed and joined his wife on the boat where a reconciliation took place through the good offices of the consul.

Oftentimes in cases which receive considerable notice in the press the work of the consular officers is an entirely overlooked factor. On September 1, 1932, the body of an American girl,

Jerane Storrs Ibershoff, was found at the foot of Zermatt Mountain in Switzerland. She and her sister had been touring Europe on bicycles. As the story developed later, the younger sister had had trouble with her bicycle and had walked down to the town. The older girl, desirous of making a side trip, proceeded alone, promising to meet her sister at the station later. An itinerant Swiss saw the girl going off alone on her bicycle and followed her. When she stopped for a drink he seized her, and when she struggled he struck her several times on the head with a stone. He then attacked her, leaving her unconscious, and she died from loss of blood.¹⁰

While the affair received considerable attention in the press very little notice was given to the work of the American consular officials, although they took a very important part in the case. Immediately upon receipt of information of the finding of the body, the consulate got in touch with the sister, the police and the hotel management. The consulate made arrangements for the bringing down of the body and obtained permission from the girls' uncle for its cremation. Since the younger sister had to remain for the inquest, the consulate took her in charge and kept her isolated from the newspapermen for three or four days. Arrangements were made for her return to the United States—a consular officer accompanied her to Cherbourg and placed her on the boat in charge of some responsible Americans who were returning home. The consulate then followed the trial of the murderer who had been quickly caught and condemned. The only mention of the work of the consulate in the press was that Consul General Prentiss Gilbert had reported that the body had been cremated and that the ashes would be sent back to America.

Welfare Cases—One of the constant demands upon a consul's time and energy is the assistance he renders to Americans in distress. These are generally called welfare cases and they run the whole gamut of human misfortune. An American naturalized citizen living in Indianapolis whose father died in Greece, leaving him a small inheritance, tried in vain to obtain it. He finally sold his insurance policies and got together enough money to go to Greece. He soon found the government restrictions to be of such character that he was unable to get the inheritance and he was

¹⁰ See the *New York Times*, September 4, 5, 7, 1932

stranded without funds. In the meantime his wife's health broke down in her efforts to carry on his shoe business in the United States. The wife appealed to her Congressman, who notified the Secretary of State. As the man had not forwarded his last address there was delay in locating him. The American Consul General in Athens, Mr. Leland Morris, finally found him, but no funds were available to send him home. After considerable effort private sources were enlisted in the man's behalf and a steamship company was persuaded to give him a reduced passage back to America.

The consulate general in Rome was appealed to one Saturday afternoon by a party of some thirty stranded Americans who were being held in the station because they had taken the wrong train. Vice consul Achilles who was detailed to look into the matter found that the men of the party were Greeks who were being repatriated by relief agencies in Cincinnati, Ohio. It was discovered that the mistake had been made at the Franco-Italian frontier where no one had met them. As they had no funds the American consul persuaded the Italian station agent to send them on without tickets as being cheaper than taking care of them.

The case of a young American boy who came to Italy to study after secretly marrying in the United States was a particularly sad one. His wife joined him and they soon had a baby. Their funds were very limited and when it was learned that another baby was coming they were desperate. The wife insisted upon an abortion and a doctor was found. He was a quack and the young mother died. As the doctor had made the boy help him, the case was a serious one. The American consul notified the parents, and retained a lawyer for a very small amount, and finally after a few months in prison the boy was freed without a trial.

At times the consul finds it very difficult to decide what is the best course to pursue in giving aid to Americans in distress. A young American girl was living in Greece with her stepfather and mother. Her own father had a prison record and lived in the United States. When the stepfather killed the mother the consulate had to decide whether it was better to have the girl stay in Greece where her estate was tied up or repatriate her to her father who was not a desirable person to act as guardian. The consulate obtained the advice and assistance of a relief organization and the girl was apprenticed to a dressmaker in Greece.

Vice Consul Milton K. Wells at Gibraltar was notified of an American colored man and his wife who were stranded without funds. They were returning from Liberia to the United States by way of Gibraltar. An alleged steamship agent took 300 pesetas to get them by the customs in Gibraltar—one of the few ports in the world free from duties—and to get their American passport visaed by the American consul. The swindler took their last 700 pesetas for passage in a non-existent boat. Vice Consul Wells got in touch with the police, had the swindler arrested, and secured the return of 930 pesetas. Never were any two Americans more grateful for the services of our American consular officials abroad.

In assisting American citizens the consul is usually in a position to give the best advice possible under the circumstances. The consul's recommendations, however, are not always followed and the result is usually to the disadvantage of the national. Three American women tourists on a visit to the battlefields were badly injured when their automobile overturned. They were forced to spend their whole vacation in the hospital instead of seeing Europe. One, a teacher of physical education, was so badly injured that she would never be able to teach again. The consulate general in Paris took up the case and obtained a settlement of 55,000 francs for the badly injured teacher and 6,500 for each of the others. A French lawyer, however, urged the women to sue for larger amounts. Although the consulate general urged that a settlement be made out of court, the lawyer's advice was accepted. The lawyer did secure larger amounts for them, but the insurance company appealed and the lawyer was then no longer interested. Again the consulate was asked to intervene and was able to obtain the original offer. Unfortunately, by this time the exchange value of the franc had decreased and the women lost about \$500 as a result of their refusal to settle at the first figure.

Consular Care of the Mentally Deranged—One of the most tragic types of welfare cases is that of the American who while on a visit abroad goes insane. This problem arises more often than one might expect and is sometimes a very difficult one to handle. One of the cases that was not so difficult occurred in Paris when one of a party of girl students on tour became suddenly insane. The woman conducting the tour was in a quandary because un-

less the tour went through on schedule all the benefits would be lost. Upon being consulted, the American consul advised that the party continue the tour and the consulate would take care of the girl. She was sent to a hospital, an American physician called and the father informed. Daily information concerning her condition was obtained by the consul until the arrival of her father. He was given every assistance in taking his daughter home. Both the principal of the school and the father expressed their most heartfelt thanks for the assistance rendered and ascribed no small part of the girl's subsequent cure to the prompt attention given her by the consulate.

A more difficult case arises when the person to be aided is violently insane and commits some act infringing the laws of the foreign country. A Californian who was taken criminally insane in Chambéry Savoie picked up a tool and seriously injured two people. He was arrested and later interned in an asylum. His mother came over to France to obtain his release and to take him home. The American consulate general in Paris finally succeeded in getting permission therefor from the authorities and then took care of all passport and other formalities.

A case was brought to the attention of the consulate general in Rome which required very delicate handling. A mentally defective shell shocked veteran who had come abroad with his aunt became so difficult to handle that the aunt was completely distracted. The consul found an American doctor who was going home who agreed to allow the man to accompany him if the aunt would pay his passage. The man, himself, refused to go, however, and it was only when the consul suggested that they all go home together that he agreed. On the night of the embarkation, however, the soldier disappeared, and just by luck was located wandering in the streets. The consul now accompanied the soldier on the boat train and saw him aboard. The arrangement worked perfectly, the soldier was placed in a veterans' hospital and the old lady expressed her undying gratitude to the consul.

Whereabouts Cases—Every consular post serves at some time or other as a port of missing men. In some cases the persons disappear deliberately; in other cases someone suddenly becomes interested in a member of his family or a friend of whom he has

lost track for many years. One of the most complicated whereabouts cases was brought to the attention of Consul General Robert Fraser at the London Consulate General. The inquiry came from a naturalized German American living in Porto Rico who wrote concerning the whereabouts of his son in England:

In 1913 he had married an English girl and in July, 1914, a boy was born. When the War broke, as an enemy alien he was interned for the entire period of the War. His wife and child went back to his wife's parents. Towards the close of the War he learned that his wife was living with another man whom she subsequently married. He went back to Germany and later to the United States. In 1925 he was naturalized in Chicago and changed his name. He also got a divorce from his wife and was given custody of the child. However, since the decree was not enforceable in Great Britain, the judge suggested that he wait until the boy was of age and then take up the case.

In 1934 he wrote as suggested, but his letter was returned. A second letter written by a friend brought an unsigned notation on the letter that the letter was an insult and that neither the boy nor his mother ever wanted to see the father again. As a last resort the man appealed to the American consul.

Consul General Fraser wrote to the chief constable of the town where the boy was living, who answered that the boy also had changed his name but was still living with his mother. Letters were thereupon written to the father, giving the boy's name and address and to the son, telling the father's interest and his desire to make a will in his favor. When no reply was received, Mr. Fraser wrote the constable enclosing a copy of the letter to the son and asked him to find out if the son had received the letter. The constable interviewed the son and found that he had never heard from his father and thought that he was long since dead. He promised to write to his father immediately.

A more typical case was investigated by the American consul in Florence. An American of means living in Tours asked that the United States consul look up his four children who were supposedly in the custody of his divorced wife at Florence. An investigation by the consulate indicated that the woman had left for the United States with an Italian prince, abandoning the children to the care of a governess, but without funds for food or cloth-

ing. The family was just about to be evicted from their villa for non-payment of rent. The father sent funds to the consulate at Florence to cover expenses and the debts left behind by the wife, and gave directions that the children and governess be sent to Paris. He later expressed his great appreciation of the work of the American consul in the care of his family.

Sometimes the consul has to play a more direct rôle in cases of family difficulties. An American woman came to Consul Gowen in London asking that he help her trace her husband, an Englishman, who had decamped from the United States with their two older children, both born in America. With the aid of private detectives the husband was located and the woman had a visit with him. He agreed to let her have the two children for a day. She immediately brought the children to the consulate and Consul Gowen booked passage for the same day. To avoid possible trouble he took the distraught mother to her hotel to pack, put her and the children on the boat and arranged with the captain that no one was to see her or even know that she was on board.

Often the disappearance of a person is caused by a revolution or disturbance in the country where the person is traveling or engaging in business. Assistant Secretary of State Carr tells of a New York merchant who disappeared while on a business trip to the Russian Caucasus. As a revolution had occurred in the district, his alarmed relatives appealed to the Department of State. The nearest consul was detailed on the case and reported that the man was being held by the revolutionists and was without means. Money was supplied by relatives and sent on to the consul. He employed an adventurous agent who got through the revolutionary lines, obtained the merchant's release and after much difficulty brought him back to the consul.¹¹

Estates of Americans Dying Abroad—The care of the estates of deceased nationals is a very important consular function and is regularly provided for in consular conventions. In some treaties the consul takes complete control and the local authorities participate merely to protect the interests of resident creditors.¹²

¹¹ William J. Carr, "What Your Consuls Do," *American Consular Bulletin*, January, 1922, 2.

¹² See Article XXXIII, Treaty of 1887 between United States and Peru, 25 *U. S. Statutes at Large*, 1461.

In others the administration is vested in local authorities and the consul merely represents the interests of the deceased national. The Consular Treaty of 1923 between the United States and Germany is of this type. It provides in Article XXIV that upon the death of a national without a will the consular officer of the district shall take charge so far as the laws of the country permit until an administrator is appointed and letters of administration granted.¹³

M. Pillaut, an outstanding authority on consular law, criticizes the first type and declares that consular conventions should be based on the following principles with reference to the care of estates: (1) the consular convention should limit itself to safeguarding the interests of the heirs; (2) the heirs should have full right of refusing consular assistance; (3) the consul's rôle should be one of supplying information and advice.¹⁴ The Franco-Polish Treaty of 1925 in the articles pertaining to the regulation of succession follows quite closely these principles.¹⁵

The United States has followed a fairly consistent policy in claiming according to the custom of civilized nations the right of a consul "to receive, inventory, take care of and account for the effects of any subject of the nation by which the consul is appointed and who dies within his consulate".¹⁶ This statement, made by Secretary of State Pickering in 1799, was repeated in approximately the same form by numerous other secretaries of state. Secretary Marcy regarded the administration of estates of American citizens dying intestate abroad as one of the most sacred and responsible trusts imposed by the consular officer.¹⁷ It has always been recognized, however, that local law is paramount unless the matter is governed by treaty.

The instructions to American consuls today are very similar. "A consular officer is by the law of nations and by statute the provisional conservator of the property within his district belonging to his countrymen deceased therein. He has no right as a consular officer, apart from the provisions of treaty, local law or

¹³ 44 *U. S. Statutes at Large*, 2153.

¹⁴ Pillaut, *Manuel de droit consulaire* (Paris, 1910), I, 171.

¹⁵ *League of Nations Treaty Series*, Vol. 73, 272.

¹⁶ John Bassett Moore, *A Digest of International Law* (Washington, 1906), V, 117.

¹⁷ Moore, *op cit.*, V, 118.

usage to administer the estate or to aid any other person in so administering it without judicial authorization." ¹⁸

The *Regulations* further provide that when no legal representative of the estate is present the consul shall inventory the estate with the assistance of two American merchants, collect and pay all debts, sell at auction after reasonable public notice such parts of the estate as are of a perishable nature and transmit the balance to the Treasury of the United States to be held in trust for the legal claimant.¹⁹ The consul is instructed to publish a notice of the death in a local newspaper and notify the Secretary of State so that a similar notification may be made to the State to which the deceased belonged.²⁰ It should be noted that the authority of the consular officer under the statutes extends to personal property alone.²¹

The number of estates abroad administered by American consuls oftentimes amounts to over a thousand a year. They occur in all parts of the world: the property of an American engineer in Afghanistan, the personal effects of the victim of a train wreck in Spain, the estate of an American businessman who was killed in Mexico, or the possessions of an American tourist who died in the American Hospital in Paris.

Sometimes the estate is in such an out-of-the-way place that the settlement entails considerable hardship upon the consular official charged with the duty. Consul Richard F. Boyce tells of such a case when he was vice consul in the West Indies. An American citizen living as a recluse on an isolated island in the West Indies passed away and the nearest American consulate was notified. Vice Consul Boyce engaged passage on a small boat which took supplies to the island twice a month. He had to live on goat meat and cocoanut water in the hottest of tropical climates while he sold at public auction the beehives, the barrel of honey, the furniture and tools of the deceased. Inasmuch as the real property by local law had to go to the eldest son and the rest could be divided, the Vice Consul spent two months tracing the children before the property could be turned over to their representative.

¹⁸ *Regulations* (May, 1930), Section 409.

¹⁹ *Ibid.*, (February, 1935), Sec. 385.

²⁰ *Ibid.*, Sec. 386.

²¹ *Ibid.* (May, 1930), Sec. 390.

To add to the interest of the experience, the boat barely missed going on the rocks because of engine trouble on the trip over, and almost ran into one waterspout after another on the way back.²²

Funeral Arrangements and Shipment of the Body—The consul frequently makes all the funeral arrangements and sees to the shipment of the body home. The shipment of bodies is sometimes a rather difficult matter due to local laws and quarantine restrictions. John W. Foster relates the story of a former American minister who committed suicide in Spain. The instructions for the shipment of the body to the United States were not received until after the interment. A special suspension of the sanitary laws had to be obtained from the ministry of the interior to secure disinterment. Further difficulty arose in obtaining a small vessel in which to ship the body to Gibraltar due to the local malediction of the church against suicides. When finally an earthquake occurred during the disinterment it was too much for the superstitious sailors and they refused to touch the accursed body. It was only weeks later that the consul was able to have a British vessel touch at the port and convey the body to Gibraltar.²³

Consul Carlton Bailey Hurst recounts the equally interesting case of an American buyer who died as a result of an appendicitis operation performed by a wholly inexperienced surgeon in Venezuela. The father was notified and cabled asking that his son's remains be sent to Paris. Consul Hurst asked permission of the Civil Governor and waited three weeks for a reply. When it came it asked him to put his request in Spanish. When this was done he was informed that before the body could be removed, the doctor's fee of five thousand dollars for the operation and five thousand dollars more for the embalming would have to be paid. The consul protested vigorously at these extortionate demands, but as the governor and doctor were apparently leagued together, the best arrangement he could get was the reduction of the total bill to \$5,000.²⁴

Quite often the death of an American will take place at sea and the question comes up as to the disposition of the body. Accord-

²² Richard F. Boyce, "The American Consul in Action and What It Means to Be One," *Christian Science Monitor*, October 22, 1929.

²³ John W. Foster, *The Practice of Diplomacy* (New York, 1906), 228.

²⁴ Carlton Bailey Hurst, *The Arms above the Door* (New York, 1932), 126.

ing to Vice Consul Milton K. Wells, stationed at Gibraltar, bodies are quite often disembarked there, embalmed by the port doctor and shipped to the United States. The consul signs an identification certificate guaranteeing that the accompanying documents are authentic: a certificate of death signed by the doctor and captain of the boat; a certificate by the port surgeon covering the embalming; a certificate by the port doctor that the body had been placed in a lead coffin hermetically sealed; and the original bill of lading. The United States *Regulations* require that in the sealing and certifying to the contents of caskets containing the remains of deceased persons which are to be shipped to the United States the facts stated in consular certificates attached must be adequately investigated and personally known to the signing officer.²⁵ The sealing at times is not a pleasant task when done seven floors down in the hot hold of a vessel by the light of a candle in an atmosphere reeking with the smell of the cargo and the sweat of the stevedores.

Disposal of the Effects of Deceased Americans—An interesting case was presented to Vice Consul William D. Moreland, stationed at Antwerp, when a telegram from New York to the consulate general asked that the property of an American girl who had disappeared at sea from a Red Star liner be held. Upon investigation it was found that the officials of the steamship company had already taken over the effects without notifying the American consulate. A protest was made and the officials sent an inventory and agreed to turn over the effects if their responsibility was thereby ended. This was not acceptable and the matter was further complicated by letters to the company from the father and other heirs in France demanding the effects. The company thereupon turned over the effects to a Belgian court which held that the effects were to go to the heirs. This decision left the original American claimants outside of the settlement.

One of the numerous rules which consuls are enjoined to observe in the settling of an estate²⁶ requests that all keep-sakes, heirlooms, jewelry, mementos and similar personal effects of the deceased be retained for delivery to relatives in the United States.

²⁵ *Regulations* (May, 1930), Sec. 411, note.

²⁶ *Ibid.*, (February, 1935), Sec. 400.

A story is told of a consul who had occasion, in taking charge of the effects of a cultured, well-dressed American accidentally drowned abroad, to force open a little trunk that had belonged to the dead man. It contained a first-class set of burglar's tools.²⁷

Notarials—Another administrative function assigned to consuls is the performance of notarial services. Until the passage of the Act of April 5, 1906, consular officers performed notarial services at their own option and were permitted to retain the fees prescribed. As a result some of the consular posts in large cities were extremely lucrative and much sought after by political henchmen. Many tales have been told of fat fees and it has been estimated that the consul generalship at London, which paid \$6,000 a year and fees, brought in to its fortunate officer in charge as much as \$75,000 in a peak year. Former Consul Lorin A. Lathrop tells of a consul who, upon receiving an official circular which added a new service to be performed, declared it would add \$3,000 to his salary. Upon being asked how he knew the service was notarial, the consul replied. "Every fee is notarial until you're told it ain't."²⁸ Notarial services still bring in fees, but they go to the Treasury of the United States, instead of into the pocket of the consul.

The Federal laws of the United States require every consul when an application is made to him "to administer to or take from any person any oath, affirmation, affidavit or deposition, and to perform any other notarial act which any notary public is required or authorized to perform in the United States."²⁹ Such acts, to be valid, must be certified by the consul under his hand and seal of office.³⁰ Although these services are required to be performed only for citizens of the United States, the *Regulations* permit the consular officer to perform them at his option for nationals of friendly powers.³¹ A consular officer is not permitted to perform notarial services outside of his district.³²

²⁷ Frederick Simpich, "Consul Is Uncle Sam's Trouble Man," *New York Times*, January 24, 1926.

²⁸ Lorin A. Lathrop, "The Recollections of a Consul," *Saturday Evening Post* (April 4, 1925), 177.

²⁹ *34 U. S. Statutes at Large*, 101; *Regulations* (May, 1930), Sec. 482.

³⁰ *Revised Statutes at Large*, Sec. 1750.

³¹ *Regulations* (May, 1930), Sec. 482, Note 3.

³² *Ibid.* Note 6.

One of the most interesting cases of notarial services in consular annals occurred in connection with the taking of the vice presidential oath by William Rufus King. Mr. King, after his election, had gone to Cuba for a rest and was unable to return to Washington in time for the inauguration. An Act of Congress permitted him to take his oath of office in Cuba, and the American consul at Havana journeyed out to the sugar plantation near Matanzas where Mr. King was staying and there administered the oath of office.³³

The Service of Legal Processes—Although the Consular Regulations do not authorize the consular officer to serve legal processes abroad, nevertheless the Act of July 3, 1926, provides for the service by American consuls of subpoenas issued by Federal courts in special cases of contempt. Such subpoenas may be served to compel American citizens temporarily residing abroad to testify or to serve as witness at a criminal action at home when it is deemed essential by the Attorney General or his assistants. The Walsh Act of 1926 was passed to compel the American citizens O'Neil and Blackmer to return to the United States in order to testify in the famous Teapot Dome oil case. Subpoenas had been issued in 1925, but when served with letters rogatory in French courts, the two Americans refused to return. Authorized by the new law, United States Consul at Marseilles, Bernard F. Hale, sought to subpoena Mr. Blackmer on the train between Monaco and Nice, but the much wanted oil man refused to accept the service. The American consul thereupon confiscated Mr. Blackmer's passport. Mr. Blackmer again refused a subpoena which was subsequently served upon him in Paris.³⁴

Consular Fees—Consuls are required to charge for all notarial acts a fee prescribed by law and every notarial act of whatever sort, personal or official, whether fee or gratis, must be completely and accurately recorded in the Record of Fees Book. A consul is liable for any fees not collected just as though he had collected them. The fees are used by the consul in charge for contingent expenses, office expenses and clerk hire, and the balance is remitted to the Treasurer of the United States.

³³ Hurst, *op cit.*, 308.

³⁴ See *New York Times*, April-June, 1927

A complete tariff of consular fees is included in the *Regulations*.³⁵ The regular fee for notarial services is \$2, while that for taking depositions is \$10 and up, according to words used and copies required. Fees for notarial services in large consulates general such as those maintained at Paris or London will at the present time approximate \$15,000—\$20,000 a year. This does not include certification of invoices, which is classed separately and averages two or three times as much.

An order of a court in the United States sometimes appoints a consul as a commissioner to take testimony. Former Consul Cornelius Ferris tells of a case where most elaborate hearings were required lasting several weeks and where the fees accrued amounted to something like \$1,600.³⁶ Vice-consul John J. Coyle recently completed an open commission to take testimony which exceeded 500,000 words at the London Consulate-General, the consul fees and public stenographer charges were over \$5,000. In the notorious Factor case where a number of English citizens tried to prevent the Chicago bank from paying out funds from Factor's account, the official fee amounted to \$21,000.

The work of taking depositions is sometimes difficult due to the hostility between lawyers and the unwillingness of witnesses to testify. Bankers and lawyers are rarely willing to testify regarding the affairs of their clients. Sometimes, however, the relations between the consulate and the parties become exceedingly cordial during a long deposition case. Consul Charles C. Broy of London tells of an admiralty case where the American lawyer, representing an English company in San Francisco, came to London and spent weeks in the long drawn out commission hearing. When the lawyer returned to the United States he not only wrote a letter of thanks to Mr. Broy, but also sent a copy to the Department of State expressing his hearty appreciation of the excellent cooperation that he had received.

Consul General Hurst tells of an interesting deposition case which concerned Johann Strauss, the Waltz King. A New York musical impresario had an arrangement with Strauss whereby his music was copyrighted in the United States under the Ameri-

³⁵ *Regulations* (May, 1930), Sec. 533

³⁶ Cornelius Ferris, "National Duties of American Consuls," *American Foreign Service Journal*, XI, 186 (April, 1934).

can's name as owner. The royalties were received by the American, a commission deducted and the rest forwarded to Strauss. But upon Strauss' death the New Yorker stopped payments on the ground that Strauss had given him the rights for the payments already made. Suit was brought against the impresario and the testimony in Vienna was taken by Consul General Hurst.⁸⁷

Services to Veterans—Another consular function whose exercise involves much detailed administration is that of rendering aid to veterans, their relatives and dependents abroad. The United States *Regulations* state that consuls are "charged with the general supervision of Veterans' Administration activities within their districts and in the absence of special instructions shall promptly submit reports of information received regarding such activities which may assist the Veterans' Administration to discharge efficiently its responsibility to its beneficiaries who reside in foreign countries."⁸⁸

Some of the complex veterans' cases require consular investigations of alleged losses of checks, and the fraudulent reception and cashing of checks, necessitating a voluminous and detailed correspondence with the Treasury Department, the local authorities and the beneficiaries. The adjustment of veterans' fiscal relations with the Administration, arrangements for medical or mental examinations, and hospitalization of diseased veterans requires much patience and time. The work connected with veterans has been particularly heavy in the consulates at Warsaw, Naples, Rome and Athens. At Warsaw during the immediate post War period the consulate general delivered between 500 and 600 checks each month to beneficiaries residing in Poland.⁸⁹ This service, as well as that of authenticating claims and witnessing the signature which the veteran files in making application for compensation, is free of charge.

Consular duties in regard to the administration of veterans' affairs started during the War when many soldiers awarded a portion of their compensation to their parents abroad. To the ten dollars allotted by the soldier to his wife, parents or children from

⁸⁷ Hurst, *op cit*, 80.

⁸⁸ *Regulations* (March, 1933), Sec 477.

⁸⁹ Carr, *op cit*, 5.

his pay of thirty dollars the government added an equal amount. These men were also persuaded by the government to take out war risk insurance.

When the War was over the government began awarding compensation to parents, wives and minor children of those dead, disappeared or wounded. The first problem was one of identification of the proper person to receive the checks, questionnaires being required from both veterans and dependents for this purpose. Identification having been ascertained, the next problem was to see that the veteran or his beneficiary received his check; this was complicated by the fact that many of these people lived in small communities where no local post offices existed and there was only rural delivery.

In Greece during 1934 between 250 and 300 veterans were getting regular disability compensation and between 400 and 500 parents, wives, widows and children were receiving death compensation through American consular officers. Approximately 1,200 checks covering \$50,000 a month were distributed. Although at first these services were performed by the legations and embassies, all veterans' administration abroad since 1931 has been concentrated in the consulates because of the requirement that consuls must authenticate the claims submitted.

Marriage of Nationals—Among the many duties of a consular officer, the services rendered to nationals unquestionably furnishes the greatest diversity of interesting cases. Space alone prevents the citation of more than a few. The consul is often called upon to answer inquiries regarding local marriage regulations and in many cases to help cut official red tape which delays the culmination of a sudden courtship. Although an American consul has no longer authority to celebrate marriages in a Christian country between citizens of the United States, he may act as a witness and in such cases he gives to each of the parties a certificate of the marriage and sends in a certificate to the Department of State.⁴⁰

One of the most interesting instances of consular services in the performance of a marriage ceremony occurred not long ago in a southern European country. A woman came into the consulate and asked the girl clerk the name of a good obstetrician.

⁴⁰ *Regulations* (March, 1930), Sec. 418.

A few days later the husband came in to see about the indorsement of a personal check. It finally developed that the two were having a baby but were not married. Although the consul suggested that the baby might appreciate being born legitimately, the prospective parents seemed to manifest no interest in the matter. However, just before the happy event, the two young Americans decided to have a ceremony performed. But upon visiting the consul to tell him of the change in plans, they were informed that the complicated requirements of the local law could not be met in the time left.

In this case the consul felt considerable responsibility and agreed to do all in his power to reduce the formalities. He was successful but on the morning of the ceremony the man arrived late with the news that his wife was already in labor at the hospital. It was now necessary to get dispensation of the King's attorney to perform the ceremony outside of the town hall. This could only be done after a doctor from the public health service had examined the patient to be certain that such procedure was necessary. The consul was equal to the occasion. He rushed the request through, and within an hour the consul, the civil officer, the clerk and the marshal with the huge civil registry books appeared at the hospital and between the labor pains the ceremony was performed.

Locating Lost Articles—Another form of assistance to nationals which the consul is constantly called upon to perform is to locate lost articles. Americans are notably careless about their luggage and when lost the consul is the one hope of the tourist. An American woman left her handbag in a Paris taxi while en route to a station. She reported the loss to the consulate which located it in the lost articles department in the prefecture of police. It was recovered and forwarded. Another American traveler after taking the train for Pau found that he had forgotten to get his suitcase out of the check room at the Quai d'Orsay. He sent the baggage check to the consulate general and his suitcase was sent on.

Nationals Involved in Customs Infractions—Another favorite practice of American tourists which gets them into trouble is

smuggling forbidden or highly dutiable articles across frontiers. In such cases where the violation of the law is deliberate the consul can do nothing, but when a mistake has been made he can often help. An American girl was stopped at the Rumanian frontier and asked whether she had any cigarettes or briquets. She thought briquets were firearms and replied in the negative. When the customs officials examined her luggage they found seven cigarette lighters in her suitcase. They took her to the station and found another. They forced her to spend the night in the station and pay a fine of 1,000 leis for each lighter. In her excitement she left her fountain pen in the customs office. The consul general took up the case and forwarded her fountain pen and secured a promise from the officials that they would refund and send on the fine collected. At another time an American student who tried to smuggle a thousand American cigarettes into France was fined 800 francs. The American consul on the plea of the boy's ignorance was able to have this reduced to 100 francs.

Seizure of Nationals for Military Duty—American naturalized citizens visiting their place of birth are sometimes seized for military duty and an appeal immediately goes to the consul. Frequently the consul can secure their release and have their names dropped from the recruiting lists. At times, however, even an appeal through the diplomatic representative fails to bring about release.

Services to Tourists—American women frequently have difficulties with shopkeepers and dressmakers and the consul is called in to obtain an adjustment. For example, an American woman touring in Europe bought a fur coat in Paris. When she received it she was not satisfied but the firm refused to do anything about it. She appealed to the consulate general, the owner of the firm was sought and he immediately agreed to reduce the price or make a new coat. In another case where a lambskin coat was found full of defects after delivery the consulate succeeded in getting a refund of 7,000 francs, the full amount paid.

American tourists quite often get into altercations with hotel keepers and invoke the aid of the consul. A landlady in an Edinburgh hotel proposed to turn out unceremoniously two American

girls because they kept late hours. The consul was able to postpone the ejection until other arrangements had been made. An artist who decided to leave his hotel in Paris for a cheaper one paid his bill and informed the proprietor. The proprietor became angry, insisted upon the American staying and finally assaulted him seriously. The consul not only obtained the artist's effects, but helped him begin suit for damages, and had the hotel black-listed.

An amusing case of inverse protection occurred in a certain European city when the major-domo of a first class hotel came to the consul general in great haste and trepidation and asked that he be allowed to explain an unfortunate incident before the arrival of two irate American women who were on their way to demand that he be dismissed. This woman and her daughter had asked for separate rooms and in showing them to their rooms he had thought the daughter gave him a knowing wink. When he went up to her room later he quickly realized his mistake and came to explain to the consul. The mother and daughter appeared soon afterwards, much excited, and demanded that the consul secure the immediate dismissal of the major-domo. The consul calmed them down and promised to take vigorous action. They departed satisfied and the consul, after finding that the man had an excellent record and that he gladly promised never to let such a thing happen again, dropped the case.

Consulates Function as Post Offices—One of the most useful services performed by American consulates in all parts of the world is the receiving and forwarding of visitors' mail. In large centers where the tourists come in great numbers a miniature post office is set up. The mail room in the Paris Consulate General handles thousands of pieces of mail annually for American tourists. It has been estimated that an average of about 4,300 pieces of unofficial mail are received at the Consulate General in London each year for private individuals.

Consuls are also called upon constantly by enthusiastic stamp collectors to furnish cancelled postage stamps of the country in which they are stationed. Most consulates make every effort to comply with these requests. The letters come from people of all ages and many youngsters have begun this hobby through the aid

of a consul. In some consulates every cancelled stamp is taken off the envelope by a clerk and then in periods of spare time small collections are prepared all ready to be sent in response to the requests which will soon come in.

Thousands of telephone calls are answered as to the names of good shops, hotels, dressmakers, florists, doctors, dentists and masseurs. Which museums should be visited and which wines should be drunk? Would the consul recommend a good night club which was rather spicy but not vulgar?

The consul is even expected to warn his nationals against confidence men. Consul General Hurst declares that so many Americans were taken in by the Spanish confidence game that a printed form was prepared to warn everyone who inquired. Even when warned, some paid no attention to the consul's advice. One of those who spurned the consul's warning was later found robbed of all his belongings and with a stiletto wound in his breast.⁴¹

Ridiculous Requests for Services—As might be expected, some requests for services are so extreme as to be ridiculous. A certain California author who was writing a book on France sent the Consulate General in Paris a questionnaire which would have taken weeks of intensive research to answer. These are a few of the questions which he wished answered: "Was M. Pol, le charmeur d'oiseaux in the Jardin de Tuileries still carrying on his pleasant occupation in 1874?" "What weather pervaded during Yuletide at Bordeaux in the years 1864, 1865, 1866, 1874, and 1875?" "What was the approximate temperature?" "Did it snow?" "Was it heavy?" "Explain the meaning of the word, 'Jacquemenot' which my dictionary does not give."

But let us conclude with the request from a western professor to a consul in Antofagasta for a cane made from wood indigenous to the district. In this case a check for \$10 accompanied the request. As the region was mostly barren desert, however, Consul George D. Hopper regretted his inability to fulfill the request and sent back the check. Not to be denied, the professor sent a second and third request, the last time enclosing \$20. The consul finally made a trip up into the Andes, climbed a cliff ninety feet above the trail, fainted before he reached the root which he had spied, and

⁴¹ Hurst, *op cit*, 218.

suffered for weeks afterwards. The guide, however, got the root, which was packed and forwarded with the check to the insistent collector. Consul Hopper waited in vain for a letter of thanks.⁴²

⁴² G. D. H., "What a Consul Does," *American Foreign Service Journal*, VIII, 290 (July, 1931).

CHAPTER XX

CITIZENSHIP, PASSPORT, AND VISA SERVICES

Registration of Nationals—The national laws of many states impose upon citizens temporarily or permanently living abroad the obligation of registering at the nearest national consulate. The French ordinance of 1833 provided that Frenchmen living abroad who wished to be assured consular protection must after proving their nationality inscribe their names in a register maintained for this purpose in the office of the consulate.¹ The German law of 1867 required every German consul to carry a register of all German nationals living in his district who applied to him for this purpose.² British *Consular Instructions* state that it is the duty of His Majesty's officers abroad to do all in their power to encourage all British residents within their districts to register.³

The United States *Consular Regulations* provide that "principal consular officers shall keep at their offices a register of persons residing in their several districts who submit satisfactory evidence of American citizenship and shall invite all persons in their districts who claim American citizenship to make the necessary applications for registration."⁴ The latter provision places a definite responsibility upon the consul to ascertain the names and addresses of persons claiming American citizenship in his district and to invite them to register. He is advised to point out that such registration provides a valuable record of citizenship and reference in case the need for protection arise.

The United States government is not officially interested in visitors or transients and although some consulates keep a register for all Americans who call, the majority do not wish tourists to

¹ A. de Lapradelle et J. P. Niboyet, *Repertoire de droit international* (Paris, 1895), V, 85.

² A. H. Feller and Manley O. Hudson, *Diplomatic and Consular Laws and Regulations* (Concord, 1933), I, 552.

³ *Ibid.*, I, 205

⁴ *Regulations* (March, 1933), Sec. 173.

register unless they are in some way connected with the government or its work. However, if any person representing the United States government in any capacity goes abroad it is extremely advantageous for all concerned that he notify both the diplomatic and consular offices of his arrival.

A case came to the author's attention some years ago which caused considerable embarrassment to Consul Claude Guyant at Lima, Peru. An American rifle team consisting largely of army men was sent down to participate in an international contest. Mail for the various members of the team came to the consulate as well as numerous inquiries and invitations, but the officer in charge of the rifle team failed to notify the consulate either of his arrival or address. Inasmuch as it was not the place of the consul to seek out the team, the writer, who happened to have become acquainted with the captain of the team, suggested that it was customary for visiting heads of such missions to pay their respects to the consul as well as to the ambassador. He hastened to do so and expressed his appreciation for the suggestion.

In countries where extraterritorial privileges still exist, the requirements for registration of nationals in their own consulates are more exacting. Consul Charles H. Albrecht, former American consul at Bangkok, reports that prior to 1870 all American citizens in Bangkok had to register at the consulate within ten days after they became residents in Siam or they would not be regarded as citizens of the United States. After 1870 a penalty of \$20 fine or imprisonment of not more than five days was added.⁵

Inasmuch as the Department of State receives from various sources numerous requests for information regarding the number of Americans resident abroad, consular officers are requested to send in such information as they can obtain upon special blanks furnished by the Department. All Americans who have been resident abroad for approximately one year are regarded as permanent residents for this classification.

Registration of Births—Consular officers are required upon request to record the birth of American children abroad. The *Regulations* require them to impress upon American citizens resi-

⁵ C. H. Albrecht, "Penalties for Non-Registration of Americans," *American Foreign Service Journal*, III, 234 (July, 1926).

dent in their respective districts the desirability and importance of a prompt registry of such births. In performing this duty the consul records the name and sex of the child, the date and place of birth, the names and residence of the parents and any other facts which will help to establish fully the identity and citizenship of the child.⁶ Before recording the birth of a child consular officers must require positive proof that the father or mother is an American citizen. Either a valid passport or a certificate of registration is regarded as satisfactory proof.

At the time of registration the consul is instructed to notify the parents, if both are American, that at the age of eighteen the child, if he continue to reside outside of the United States, must record his intention of becoming a citizen at an American consulate and must take an oath of allegiance upon attaining his majority. If either parent is an alien, according to the provisions of the law of May 24, 1934, the child will be divested of his American citizenship unless he resides in the United States at least five years continuously immediately prior to his eighteenth birthday, and unless within six months after attaining the age of twenty-one years takes an oath of allegiance to the United States.⁷

A few states authorize their consular officers to assist in the naturalization of aliens. For example, a Russian consul is authorized to accept declarations of persons who desire to become citizens of the U. S. S. R.⁸ France, Belgium, Spain and Holland authorize consuls to receive in so far as their national laws permit declarations looking towards assuming or relinquishing the nationality of the state that they represent.⁹

Citizenship—Although the United States does not authorize its consuls to take declarations of naturalization, it is essential that the consular official be thoroughly familiar with the laws governing citizenship in the United States in order that he may perform properly his duties of protection and issuing of passports. According to the Act of March 2, 1907, it is provided that when a naturalized citizen of the United States shall have resided for two years in the foreign state from which he came, or for five

⁶ *Regulations* (February, 1935), Sec. 422½.

⁷ *Ibid.*, Sec. 422½, Note 1.

⁸ Feller and Hudson, *op. cit.*, II, 1206.

⁹ de Lapradelle et Niboyet, *op. cit.*, V, 168.

years in any other foreign state, it shall be presumed that he has ceased to possess American nationality unless he overcomes such presumption by the presentation of satisfactory evidence to a diplomatic or consular officer of the United States ¹⁰

The rules laid down by the Department of State to overcome this presumption require the naturalized citizen to present to the diplomatic or consular officer satisfactory evidence that he intends immediately or eventually to return to the United States for permanent residence. In the latter case he must prove that his protracted residence abroad is due to one of the following reasons :

1. That he is residing abroad principally as a representative of American trade or commerce ,
2. That his residence is for reasons of health or education ;
- 3 That some unforeseen or controlling exigency has prevented his return within the time prescribed by law and that he will return immediately upon the removal of the preventing cause ;
4. That he is living abroad to represent a recognized American educational, scientific, philanthropic or religious organization ;
5. If engaged independently in educational or similar work, that he was trained in American institutes, and that the work is not inconsistent with American interests ,
6. That he is a teacher in a recognized institute or employed by an American concern doing business in Canada, Mexico, the West Indies, Central America or Panama ;
7. That he is sixty years of age, has lived in the United States twenty years subsequent to his naturalization, and has retired from active business and has maintained effective ties with the United States as an American citizen.¹¹

The burden of proof is upon the applicant, who must present affidavits and other evidences of the circumstances to make valid his claim under the rules laid down. Mere assertions, even under oath, will not be accepted by the consul as sufficient. For example, if the naturalized citizen declare that he resides abroad as the representative of an American firm, he should be able to show a contract with the firm, or a salary check or a letter from the firm, and he must prove that the firm does a certain amount of busi-

¹⁰ 34 *U S Statutes at Large*, 1228.

¹¹ *Regulations* (March, 1933), Sec. 144B, Note 3.

ness abroad. A naturalized German-American theatrical agent representing several American circuits in Berlin was unable to show any bookings and could not retain his citizenship for a period longer than two years. If the naturalized citizen is staying abroad for his health, he must submit a medical certificate proving that the treatment that he obtains abroad is better than he could receive at home. If study is the motive, a certificate of registration in a university would be sufficient. If engaged in research, affiliation with an organization for research or affidavits from outstanding authorities in the field would be proof of his *bona fide* purpose.

A naturalized Danish-American missionary who had lived in the United States for many years went to Denmark to collect money for founding a sanatorium. He remained thirty years. For the first ten years he retained his American citizenship as he was on a *bona fide* mission of American origin. He then became a free lance and lost his citizenship, and his two daughters, born in Denmark, were not able to enter the United States as citizens.

If the applicant allege that events beyond his control prevent his immediate return, he must prove this to the consul. The post War money regulations sometimes furnish a legitimate reason. A naturalized German-American woman owned a large apartment house in Berlin. When her agent ceased to send in the rents she went over to see what was the matter. She was caught in the financial crisis, was forbidden to transfer any funds, could not sell the property, and was compelled to live on a pittance in Berlin. Under the circumstances she was granted an annual extension of her passport. Another controlling exigency regarded as a legitimate reason for continued residence abroad is the necessity to take care of a near relative who is ill or an invalid and has no one else to perform this necessary duty. Very often the citizen has come over to see his parents, one of them dies and the other cannot be left uncared for and alone. The consul is not expected to require unnatural conduct of a son or daughter for the sake of preserving his or her American citizenship.

Citizenship of Married Women—One of the problems which a consular officer often finds difficult to solve is the citizenship

of married women. Until the so-called Cable Act of September 22, 1922, the laws of the United States followed the same principles as those of most foreign nations and provided that a woman take the nationality of her husband. Since the Act of 1922 and its amendments of July 3, 1930, and March 3, 1931, the situation is much more complicated. In substance, the law permits an American woman marrying an alien to retain her American citizenship, and it requires an alien woman marrying an American to make formal application for American citizenship. The matter is complicated by provisions governing the special status of an American woman marrying an alien ineligible to citizenship or one who marries an alien living abroad. This is not the place for a discussion of the question of naturalization and citizenship, but a few examples will illustrate the type of case which the consul is called upon to decide.

Mrs. T——, born in the United States, was married in 1927 to a Frenchman and went to France to live. In 1930, when she wished her American passport extended, the presumption of expatriation arose, but inasmuch as the birth of a child prevented a return home within two years, the passport was extended and the trip made. She returned to France and again asked for an extension, claiming that she had to live in France with her husband because of financial reasons and the illness of her husband's parents. As soon as a legacy, then in trust, was available, she intended to go to the United States with her husband and child for permanent residence. In this case the consul approved the new application for an extension, but the Department of State refused the request.

The following interesting case came before United States Consul J. F. Huddleston in Dresden. Mrs. W——, a native American citizen, was married after the passage of the Cable Act to a German. She lived with her husband in Germany until 1924, when she visited the United States. She returned to Germany in 1925 on an American passport dated November 5, 1925, and lived with her husband until she was divorced in 1928. She married another German in 1929 and in 1934 applied for an American passport. In this case, although by the Act of July 3, 1930, an American-born woman living abroad with her husband does

not lose her citizenship, Mrs W—— was already considered to have been under the presumption of expatriation on July 3, 1930, when the new act was passed.¹²

Fraudulent Naturalization—Cases of fraudulent naturalization constantly arise, but these are usually easy to rule upon because the provisions of the law in this case are subject to fewer exceptions. The law states that any naturalized American who takes up permanent residence in any foreign country within five years of the date of his naturalization did not intend in good faith to become an American citizen and his certificate of naturalization is fraudulent and subject to cancellation. Diplomatic and consular officers are instructed to furnish the Department of Justice through the Department of State the names of such persons within their jurisdiction.¹³

The consular official must base his judgment largely upon the question of permanency of residence. If the naturalized citizen exercises political rights, pays personal taxes, establishes a residence or place of business in the foreign country, it should be considered as indicative of the acquisition of permanent residence. On the other hand, if he leaves his family in the United States, pays taxes there and performs duties incident to American citizenship, the presumption of the temporary nature of his residence might seem to be warranted. The final responsibility of deciding whether to prepare a certificate for cancellation of naturalization is placed upon diplomatic and consular officials.

Expatriation—It is provided by the Act of March 2, 1907, that any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.¹⁴

An expatriation case somewhat out of the ordinary was presented to Consul O. G. Ellis in Budapest. An American natural-

¹² For a full explanation of the modifications brought about by the amendments of July 3, 1930, and March 3, 1931, see *Regulations* (March, 1933), Sec. 140, Note 1.

¹³ *Regulations* (March, 1932), Sec. 145

¹⁴ 34 U. S. Statutes at Large, 1228

ized citizen was compelled by legitimate professional reasons to reside in Denmark, so that while in Denmark the presumption of expatriation did not arise. Being divorced in Denmark, his two children were awarded to his wife. He fled to Hungary with his son, and, in order to avoid losing the boy, became naturalized. His wife also went to Hungary, brought an action against him and won the suit. As a result his Hungarian nationality was cancelled *ab initio*. Believing that he could resume his American nationality since the Hungarian was illegal from the beginning, he came to the American consulate general for an extension of his passport. Instead, Consul Ellis took up his passport on the ground that he had become expatriated by his own action, in spite of the refusal of the Hungarian state to accept him.

Passports—to Whom Issued—The present wide-spread use of passports is essentially a post-War development. Except in Russia and Turkey, all Western Europe had eliminated the passport by 1867. France utilized it in 1870, but only for a brief period. Since the World War, however, the majority of countries require foreigners entering their territories to possess passports properly visaed by their consular officers.

The passport today is usually a certificate of the citizenship of the bearer, although there are still a few states which will issue passports to others besides their nationals. For example, the ordinance of October 25, 1833, which is still in force, provides that French consuls are authorized in all cases where the laws and ordinances of the country in which they are established permit to issue passports for France to aliens requesting them.¹⁵ Italy also permits the issuance of passports to foreigners in cases provided for in the regulations.¹⁶ Great Britain, on the contrary, permits British passports to be issued only to British subjects and protected persons.¹⁷

In the United States, except for very short periods, the passport has always been a certificate of citizenship. Secretary of State Forsythe in 1837 declared that "passports are only granted to citizens of the United States," and Secretary of State Webster in

¹⁵ Lapradelle et Niboyet, *op. cit.*, V, 135.

¹⁶ Feller and Hudson, *op. cit.*, I, 688.

¹⁷ *Ibid.*, I, 204.

1843 stated that "applicants for passports are required to furnish this department with proof of citizenship."¹⁸ A slight exception seems to have been recognized in the *Personal Instructions to the Diplomatic Agents of the United States*, issued in 1853, which stated that applications for passports from citizens of other countries "were not regularly valid and should be granted only under special circumstances as may sometimes occur in the case of foreigners coming to the United States".¹⁹

By an Act of Congress dated August 18, 1856, it was expressly forbidden to issue a passport to any person not a citizen of the United States.²⁰ An Act of March 3, 1863, however, permitted aliens who had made a declaration of intention to become citizens, and those who were liable to military duty to obtain passports. This privilege endured only a little over three years and was repealed by the Act of May 30, 1866.²¹ The privilege was again extended to persons who had made a declaration of intention by the Act of March 2, 1907, under such rules as the Secretary of State might prescribe. The rules adopted by the State Department required a three-year residence as well as a declaration of intention and then limited the passport to a six-months period and for emergency cases only.²² The privilege was again withdrawn by the act of repeal of June 4, 1920.

After the Spanish American War when the United States obtained certain insular possessions some provision was required for the issuance of passports to those inhabitants who were not citizens of the United States, but owed allegiance to it. The Act of June 14, 1902, covered the situation by providing that "no passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States."²³ At the present time Hawaiians and the majority of the inhabitants of Porto Rico and the Virgin Islands are American citizens and as such entitled to United States passports. Passports are also issued to citizens of Porto Rico and the Philippines and to those persons entitled to the protection of the United States who are

¹⁸ John Bassett Moore, *Digest of International Law* (Washington, 1906), V, 870.

¹⁹ Gaillard Hunt, *The Department of State* (New Haven, 1914), 351.

²⁰ U. S. Revised Statutes, Sec. 4076.

²¹ 12 U. S. Statutes at Large, 731, 754.

²² 34 U. S. Statutes at Large, 1228.

²³ 32 U. S. Statutes at Large, 386.

inhabitants of the Canal Zone, Guam, American Samoa and the American Virgin Islands ²⁴

Passports may be issued to minors unless there is objection on the part of parent or guardian, and children of twelve or more years of age may execute their own application. A passport issued to a husband may include his wife and minor unmarried children. Also a woman's passport may include her minor unmarried children. ²⁵

Passports—by Whom Issued—Although the issuance of passports is essentially the function of a state's foreign office, the right of diplomatic and consular officers to issue passports is accorded today in practically all national laws and consular conventions. In the United States, although the first passport seems to have been issued by the Secretary of State on July 8, 1796, no law regulated the issuance of passports until the Act of August 18, 1856. As a consequence not only were passports issued by the Secretary of State, but papers designed to serve the same purpose were issued by the governors of the states and other local authorities and even by notaries public. ²⁶ The American ministers and consuls abroad were often embarrassed by being asked to certify such documents when they were not certain of their authenticity. Shortly before the passage of the Act of August 18, 1856, Secretary Marcy in order to help guard against fraud instructed diplomatic and consular agents of the United States abroad not to acknowledge passports or certificates of citizenship other than those issued from the Department of State.

The Act of 1856 provided that "the Secretary of State may grant and issue passports, and cause passports to be granted, issued and verified in foreign countries by such diplomatic or consular officers of the United States and under such rules as the President shall designate and prescribe. . . ." ²⁷ It also made it a penal offense for anyone else in the United States to issue passports or any other documents serving as passports. The law was amended in 1902 to permit passports to be issued by executive officers of insular possessions of the United States. ²⁸

²⁴ *Regulations* (March, 1932), Sec. 153, Note 1.

²⁵ *Ibid.*, (March, 1933), Sec. 165.

²⁶ Moore, *Digest*, *op. cit.*, III, 862.

²⁷ 11 *U. S. Statutes at Large*, 60.

²⁸ 32 *U. S. Statutes at Large*, 386.

From the very beginning the Department of State refused to issue passports to persons abroad, and when in 1810 a Virginia judge sent an application to the Department of State to issue a passport for an American in France, the Department forwarded the paper to the American minister in Paris and asked him to issue the passport.²⁹ Although in this early period diplomatic officers sometimes granted passports, for the most part passports were issued abroad by consular officers until the Act of 1856 prohibited a consular officer from issuing a passport in a country where there was a diplomatic agent except in the latter's absence. This practice held until 1896 when consular officers specifically authorized by the Department were permitted to issue them. By the year 1898 about forty consular officers had the specific authority required by the regulations.³⁰

It should be noted, however, that passports were issued abroad by diplomatic and consular officers only in cases of emergency. A citizen abroad in need of a passport applied through the nearest diplomatic or consular officer to the Secretary of State. If the delay would entail hardship upon the applicant, however, the diplomatic or consular officer duly authorized could issue an emergency passport good for a period not to exceed six months. It was further required that the applicant was proceeding to a country which demanded a passport to enter into its territory.³¹

When the World War broke, the majority of Americans in Europe were without passports and as the European nations immediately insisted upon the identification of tourists, an emergency situation arose. The Department of State authorized European embassies and legations and then consulates to issue emergency passports to all American citizens who requested them. The authority to consuls was subsequently withdrawn and legations and embassies required to obtain from the applicant unquestionable proof of his identity and American citizenship.³²

Since October 1, 1926, the issuance of passports abroad has been confined almost entirely to consular officers. According to the latest regulations the consular officers in charge at 178 consular

²⁹ Moore, *op. cit.*, III, 868.

³⁰ Gaillard Hunt, *The American Passport* (Washington, 1898), 88.

³¹ *Circular Instructions to American Diplomatic and Consular Officers*, April 19, 1907, *Foreign Relations of the United States, 1907*, I, 13-15.

³² Charles Cheney Hyde, *International Law* (Boston, 1922), I, 694.

posts may issue passports. Only four diplomatic posts have such authorization: Tirana, Albania; Peiping, China; The Hague, Netherlands; and Managua, Nicaragua.

Issuance of Service Passports—The rules governing the issuance of passports by diplomatic or consular officers are exceedingly detailed. In general they are limited to those persons who have already received or been included in passports issued subsequent to January 3, 1918. All other persons except in cases of emergency must apply to the Department of State. Officers abroad are specifically instructed to refer certain types of application to the Department of State. These include naturalized citizens against whom the presumption of having ceased to be American citizens has arisen, women married to aliens who may have become subject to the presumption of expatriation, persons whose claims to American citizenship are open to doubt and persons of doubtful loyalty or of an undesirable class.³³

In issuing passports officers are cautioned to exercise great care in order that the identity of the applicant may be correctly established. Passports issued to native citizens are good for two years but for the naturalized citizen registered at the consulate the time is limited to the period of validity of the registration.

Loss of Passport—Consular officers are instructed to impress upon American citizens that the loss or destruction of a passport is a serious matter which should be reported and explained to the nearest consular officer. Before a new passport may issue, a satisfactory explanation of the loss in affidavit form must be filed and the issue of the lost passport verified by the Department of State or the office which issued it.

Upon occasions the loss of a passport, although tragic to the unfortunate tourist, has its amusing features to the officials. Consul General James B. Stewart tells of such a case happening in Budapest. An American girl in a party of tourists found that her passport had disappeared between the last and present stops on the journey. As her party was to continue its tour in the morning, she was in a predicament. The consulate at Budapest called the consul at the previous stop and asked him to investigate. He finally

³³ See *Regulations* (August, 1930), Sec. 150, Notes 9-13, for detailed rules.

discovered what was left of the precious document in the possession of the garbage man of the hotel where the party had stayed. The passport was obtained and despatched forthwith, and a member of the consular staff remained three hours at the General Post Office to get it upon arrival. A little refurbishing and the document was returned to its gratified owner. The threatened expenditure for a cable to the Department, a new passport and visas could now be utilized in a more satisfactory manner.

Renewal of Passports—The Act of May 16, 1932, permits the renewal of passports for a period of two years by consuls under approximately the same regulations as govern the issuance of passports. Passports of expatriates are not renewable. Passports may also be amended by foreign service officers to include the bearer's wife and minor children.

Passport Frauds—The stringent immigration restrictions imposed by the United States since the World War have made an American passport an exceedingly valuable document. As a result every form of fraud has been attempted to obtain them. Fraudulent birth certificates and naturalization papers have been utilized to prove American citizenship. Passports have been bought from naturalized American citizens and persons born in the United States of alien parents and altered to permit the illegal entrance of the bearers into the United States. The consular offices at Warsaw, Athens and Naples have been particularly troubled with passport frauds and the consular officials in those offices have become experts in detecting irregularities of every sort.

A certain Franciszek Urban had a complete organization in Warsaw engaged in fraudulent practices of various sorts in connection with the effecting of illegal entry into the United States. One of the commonest practices was to charge high fees for services in assisting American-born Poles who had been brought up in Poland to obtain the necessary passports to enter the United States. In cases where the American Pole had no use for a passport he could sell it to the gang who would alter it so cleverly that only the most minute examination with a microscope could detect the changes. The Urban gang became so brazen before it was finally

broken up that it virtually blackmailed one of the officials of the Warsaw consulate general.

Mr. J. Klahr Huddle, who has served as chief of the Division of Passport Control and for a considerable period as consul general in Warsaw, has emphasized the fact that methods must be employed in Warsaw in dealing with persons claiming American citizenship which would be wholly uncalled for in the consulates in other large cities such as London or Paris.

The following are typical examples: a supposedly American-born Pole brings both a birth certificate and a baptismal certificate and applies for a passport for return to the United States. His alleged father accompanies him and swears to the child's American birth. The consulate has found that one of the best methods of uncovering fraud is to question the applicant regarding his relatives. In this case the candidate was unable to reply in a satisfactory manner to questions concerning the relatives of his father in Poland or the United States. The consulate becomes suspicious and checks his birth in the United States and his identity and military service in Poland through the local authorities. It is discovered that the applicant had purchased the birth and baptismal certificates from a friend and had persuaded the friend's father to swear to the relationship. The town authorities had even been bribed to issue a false identity card. After the two had been convicted the original owner of the birth certificate made application.

Vice consul Orray Taft relates the following typical incident. In 1922 an American-born Polish girl obtained a passport on the basis of her birth certificate and went to the United States. In 1928 another Polish girl of the same name obtained an American passport, this time on a baptismal certificate. In 1933 when a third member of the same family attempted to obtain a passport the earlier fraud was discovered. In this case the girl could afford reasonable proof that she had been born in the United States, but it took her exactly fifteen months to convince the consulate that she actually had been born there considering the previous circumstances.

The Consulate General at Marseilles has had considerable trouble with Armenians who claim American nationality. An Armenian will go to the United States, become naturalized, return to Armenia

and get married. Political conditions prevent return, a child is born, and then all but the child massacred. A case related by Consul Charles R. Nasmith concerned the son of a naturalized American Armenian who was able to get back to the United States after his father, mother and wife were murdered. His younger brother escaped and was brought up by a Turkish woman. The older brother learned of it and went over to bring his brother back with him. The problem of proving the American citizenship of the younger brother was a very difficult one, but was finally accomplished.

Although the passport work in a consular post is not, perhaps, as interesting as some other duties, it is one of the functions which requires unceasing vigilance and care. The Department of State has a very complete file of passport applications and all stray or fraudulent passports and irregular cases are brought to the attention of the consulates which might be concerned. The safe in the Consulate General in Naples has a great collection of fraudulent passports which have been confiscated due to the expert scrutiny of experienced consular officials.

Once in a while an American passport is seized by foreign authorities who question the right of one of their former nationals to possess it. The American consulate-general in Istanbul has had several instances of this kind. In such cases the United States always insists upon the return of the document, inasmuch as it reserves the right to itself of taking up or canceling a passport. Owing to the short life of a passport, it is rarely taken up before expiration, if properly issued. A recent example, however, was the case of the passport of Mr. Insull, which was cancelled when the owner refused to surrender it.

Passport Visa Service—Closely associated with the issuance of passports, although of somewhat more recent origin, is the consular duty of granting passport visas. The visa or *visé* is an indorsement indicating that the passport has been examined and is authentic. Usually the visa is affixed in the country where the passport is issued by the diplomatic or consular officer of the country which requires it before the bearer shall be allowed to enter its territory. Occasionally it is affixed at the frontier by officials of the country to which admission is sought. More rarely it may be

required from a diplomatic or consular official of the government granting the passport. In this latter case, the procedure is usually called verification.

The United States in accordance with the provisions of the law passed August 18, 1856, provided that whenever a foreign government required the visa of a passport of any citizen of the United States it should be given by the consular officer of the United States at the place where it was demanded.³⁴ In the instructions to diplomatic agents issued in 1885 and in the consular regulations of 1881 provision was made for verification of passports by consular officers of the place where the verification was sought. If the foreign government refused to acknowledge the validity of the consular visa the principal diplomatic official was authorized to give it. Consular agents were authorized to visé but not to issue passports. It was further provided that no visé should be attached to a passport after two years from its issue.³⁵

Present Procedure in Verifying Passports—The most recent *Regulations* provide that when the laws, regulations or practices make it desirable that an American passport be verified, diplomatic and consular officers, including consular agents, are authorized to verify valid American passports by indorsing thereon the word "good" in the language of the country in which the officer is stationed and affixing the signature and official seal of the officer.³⁶

Certain countries require their nationals when traveling in foreign countries to present their passports to the consul residing there in order to be assured of consular protection. The French law is very specific on this point.³⁷ Argentina, Germany, Italy and Japan permit such verification but do not require it.

It would appear as though no requirement has ever been made by the United States that passports of foreigners be visaed until the United States entered the World War. Assistant Secretary of State Cridler in writing to Consul McGinley in 1898 declared that the legislation of the United States did not require a consular officer to visé foreign passports but that he might do so as a matter of

³⁴ *U. S. Consular Regulations* (Washington, 1868), 351.

³⁵ Moore, *op. cit.*, III, 995.

³⁶ *Regulations* (March, 1933), Sec. 169, Note 1.

³⁷ Feller and Hudson, *op. cit.*, I, 526.

courtesy.³⁸ Shortly after the United States declared war against Germany diplomatic and consular officers were instructed to require aliens seeking to enter the United States to have their passports visaed and the officers were further enjoined to scrutinize the applicants carefully before affixing the visas.³⁹ This was followed by the executive order of July 26, 1917, issued jointly by the Secretaries of State and Labor, requiring all aliens coming to the United States to bear passports visaed by American consular officers. Before a visa was granted the alien had to fill out a questionnaire giving information as to his antecedents, nationality, residence, occupation, and reason for coming to the United States.⁴⁰ The whole subject of passports and entrance into the United States was taken care of by an executive order and proclamation issued by President Wilson on August 8, 1918, pursuant to an Act of May 22, 1918, to prevent in time of war departure from or entry into the United States contrary to the public safety.

Although the United States did not require visas on alien passports prior to the World War, certain other states had for many years required this formality of Americans. In 1889 the Turkish minister at Washington notified the Secretary of State that passports of travelers visiting Turkey must be visaed by an Ottoman consular officer.⁴¹ The State Department issued a notice in 1901 that all persons entering Russia must have a passport visaed by a Russian diplomatic or consular official.⁴² By the beginning of the twentieth century, however, except for countries of the Far East and Near East, both passports and visas had become almost obsolete.

In the post War period, however, practically every state required an alien entering its territory to have a passport visaed by its consul. These restrictions and the charges entailed made traveling both onerous and expensive. In fact, the handicap to travel was so great that the League of Nations held two conferences, one in 1920, and another in 1926, to try to eliminate the worst features of the passport nuisance. Although costs have been somewhat reduced, the visa system is still a very burdensome restriction upon

³⁸ Moore, *op. cit.*, III, 995.

³⁹ Hyde, *op. cit.*, I, 702.

⁴⁰ *American White Paper*, "European War," No. 2, 702.

⁴¹ Moore, *op. cit.*, III, 997.

⁴² *Foreign Relations of the United States*, 1901, 453.

travel. According to figures issued by the United States Passport Bureau in 1933 before the United States depreciated the dollar, an American planning to visit Europe and the Near East, stopping in Great Britain, France, Poland, Austria, Hungary, Belgium, Greece, Rumania, Spain, Portugal, Egypt, and Turkey would have to expend \$10 for his passport and about \$60 for visas.

Although the requirement imposed upon American consuls to affix visas on the passports of foreigners desirous of entering the United States was an additional duty, it was not until the new immigration laws were put into effect that the duty became a real burden.

The Alien Visa Control System—The Act of May 22, 1918, had been extended by the Act of March 2, 1921, and the so-called alien visa control system was inaugurated to keep out revolutionists, anarchists, fanatics and undesirables of all sorts. A veritable flood of foreign immigrants threatened to engulf the United States. In the year 1921 American consuls abroad affixed visas to over 650,000 passports of aliens bound for the United States. It was the duty of the American consul to sift out the undesirables and detect passport and visa frauds. At one port alone 31 fraudulent visas were found upon an American bound steamer and at another a gang was ferreted out which had placed 390 passports in circulation in one month.⁴³

On May 19, 1921, Congress passed the first so-called immigration quota act, a temporary emergency measure which was to stem this tide of aliens eager to escape from the miseries of war-wracked Europe. The law provided that the number of aliens of any nationality that might be admitted should be limited to three per cent of the number of that nationality resident in the United States, as determined by the United States census of 1910. This act was extended for two years by the Act of May 11, 1922, and amended to approximately its present form by the Act of May 26, 1924. The latter act changed the quota basis from three to two per cent and based the quotas upon the census of 1890, instead of that of 1910. Of more importance to the consular officers, it provided a method of selection of immigrants at the source, rather than permitting them to come to the United States and then having them

⁴³ Wilbur J. Carr, "What Your Consuls Do," *American Consular Bulletin*, January, 1922.

sent back. The United States consulates in all parts of the world where the quotas were to be filled were made responsible for the quota control by means of visas affixed to the immigrants' passports.

Former Vice Consul Raymond Fisher, stationed at London in 1924 when the new system was inaugurated, has described the situation to the writer :

With the passage of the immigration quota law the office was in a quandary. No new visas had been granted for over six months. There was an ever increasing waiting list. No exact information could be given the applicants for visas and when finally definite word was received from Washington regarding quotas and procedure we had only the scantiest instructions on which to work. Everyone in the office, and there were some thirty of us, turned to, working night and day, taking applications, meeting the thousands of applicants who flocked around Cavendish Square urging them to bring pertinent proof of their nationality and claims. The less doubtful and more urgent applicants were given their visas first. Even then, the next ship brought back nearly half of our applicants from Ellis Island, for during the period of the voyage across new provisions had been added to the regulations.

An efficient administrative system has been gradually developed in the consular offices abroad and at the present time the quota control work is one of the most important functions of many consular offices. At certain posts, such as Naples and Warsaw, the control of immigration is perhaps the most arduous work of the consulate.

Passport Visas—Consular officers now make a distinction between a passport visa and an immigration visa. The latter document is issued to all aliens coming to the United States except those technically known as non-immigrants. The passport visa is applied to the passports of non-immigrants who comprise (1) governmental officials and those accompanying them; (2) tourists and temporary visitors, (3) aliens in transit through the United States; (4) *bona fide* alien seamen; and (5) aliens doing business between the United States and their country under commercial treaties.⁴⁴

⁴⁴ *Supplement A to Consular Regulations* (July, 1932), Sec. III, Note 23.

The United States is desirous of making it as easy as possible for non-immigrants to enter the United States, to that end consular officials are instructed to show them every possible courtesy and consideration. No unnecessary restrictions are to be placed in the way of granting passport visas promptly to this group. But the consul must take the responsibility for determining whether or not the applicant is entitled to enter the United States as a non-immigrant. Therefore, he is expected to make a careful examination to obtain all pertinent facts bearing on the true status of the applicant. The burden of proof is on the applicant to show that he has a fixed domicile abroad which he has no intention of abandoning and that he is in one of the groups classed as non-immigrants.

Temporary Visitors' Visas—Since the period of the depression many persons unable to obtain an immigration visa attempt to obtain a temporary visitor's visa and once in the United States, they feel that it will be possible to remain illegally. As a result consular officials have become very strict in granting non-immigrant visas. At some ports more than fifty per cent of the applicants for passport visas as temporary visitors are refused. Figures furnished by Vice Consul E. V. Polutnik at Budapest indicated that in the fiscal year 1933 out of 1,010 applicants examined for temporary visits, 788 were refused, a ratio of over eighty-five per cent. In the fiscal year 1934 out of 503 applying, 344 were refused, that is, over sixty-eight per cent.

As a rule there is no difficulty in obtaining a passport visa for the foreign business man wishing to go to the United States. He is usually known to the consul personally or through his firm, and the matter is quickly arranged. Once in a while, however, a complaint arises. In 1926 a Bombay stock-broker who suddenly found it necessary to come to the United States on business claimed that it took him two weeks to get a visa from the Paris consulate general. He was first required to purchase a round-trip ticket. Then he was asked to produce letters from two persons who had known him ten years. Unable to get these, he brought three letters from different banks. But the vice consul still refused a visa. The agent of the American Express Company finally

pointed out that the broker's round trip ticket was not transferable and his passport was finally visaed.⁴⁵

Even very eminent visitors sometimes have difficulties. When Professor Albert Einstein was about to leave for the United States in December, 1932, he found that his visa was being held up. Apparently some organization in the United States objected to his coming and notified the American consulate general in Berlin that Einstein was a communist. The great scientist was called to the consulate and interrogated as to his political beliefs. Becoming incensed at the questions asked, Professor Einstein refused to answer them further, and left the consulate, declaring he would not go to the United States. However, when he found later that all visitors might be asked such questions he completed the formalities required and received his visa.⁴⁶ Some little delay occurred in the consulate general in London in August, 1933, when certain Jewish professors, exiled from Germany, attempted to obtain visas to come to the New School for Social Research in New York. In this case the State Department gave instructions that the applications be given the utmost consideration.⁴⁷

Bona fide tourists are always welcomed, but the consul has to be certain that the traveler really has the intention of returning. A round trip ticket is by no means conclusive evidence, nor is a sworn statement. The Century of Progress Exposition was thought to be the *Open Sesame* to America by many aliens but they found that the hard hearted consul first had to be sure that they had plenty of money to go and come back and then had to be certain that they had a very definite intention of coming back. A wealthy Rumanian who wished to place his son in school in Chicago and also see the Exposition was granted a visa without hesitancy.

On occasions an alien who has applied for an immigration visa and has been refused will apply later for a passport visa. Such a situation strengthens the inference that the applicant is not entitled to non-immigrant status and the passport visa will not be granted. Vice Consul Shiras Morris while in charge of visa work at the United States consulate in Marseilles had such a case. A

⁴⁵ *New York Times*, May 18, 1926.

⁴⁶ *Ibid.*, December 6, 1932.

⁴⁷ *Ibid.*, August 12, 1933.

woman applying for a visitor's visa in 1934 was asked if she had ever before applied for either an immigration or passport visa at any consulate and had been refused. She answered in the negative and then swore to her statement. When she was told that the files showed that she had applied for an immigration visa in 1925 she declared that it was her cousin who had applied. When the records indicated that the cousin was born at the same place on the same day and the father had the same name the woman left in disgust.

Vice Consul Robert McClintock when stationed at Panama found that innumerable people went to the Canal Zone from all parts of the Western Hemisphere thinking that because the United States exercised jurisdiction over the Zone, they were automatically within the United States. It would then be quite simple, they reasoned, to take a boat bound for an American port and go right in without a visa.

A most interesting and rather exceptional passport visa case arose in connection with the visits to the United States of the Count and Countess Karolyi. Countess Karolyi came to the United States in 1924 to lecture, but was taken ill and had to abandon her lecture tour. She sent for the Count to join her, but before the United States consulate general at London would visa his passport he had to give a pledge not to engage in public political discussions while in the United States. Count Karolyi's counsel protested to Secretary of State Hughes, but the Secretary refused to lift the ban except to permit answers to attacks by Hungarian newspapers.

When the Countess wished to return the following year to carry out her lecture tour the consulate general in Paris refused to visa her passport. The State Department sustained this ruling and the Countess brought suit for a writ of *mandamus* in the Supreme Court of the District of Columbia to compel Secretary Kellogg to revise his ruling and permit her to come to the United States to visit friends and complete her lecture tour.⁴⁸ Secretary Kellogg insisted on the ban in reply to the petition and an appeal was taken to the Circuit Court. When this Court ruled against her, she dropped the suit.⁴⁹ When the Karolyis applied again in 1929, Secretary Stimson permitted them to come in and no restriction was made as regards lectures.

⁴⁸ *New York Times*, January 3, 1926.

⁴⁹ *Ibid*, May 16, 1926.

Immigration Visas—The Immigration Act of 1924 places upon American consular officers abroad the responsibility of keeping immigration into the United States within certain prescribed numerical limits. These restrictions are in addition to the various provisions of the immigration laws which generally exclude the following classes. mentally or physically defective, paupers or vagrants, diseased persons, criminals, polygamists, anarchists, prostitutes and procurers, contract laborers, persons likely to become a public charge, persons previously deported, persons financially assisted to come to the United States, stowaways, children unaccompanied, natives of the Asiatic Barred Zone and illiterates.

In the first ten year period after the passage of the Immigration Act of 1924 American consular officers examined more than three million aliens, issued more than two million immigration visas, issued approximately half a million non-immigrant visas and collected \$24,218,022 in visa fees.⁵⁰

The annual quota of any nationality for the fiscal year is a number which bears the same ratio to 150,000 as the number of inhabitants in the United States in 1920 having that national origin bears to the total number of inhabitants in the United States in 1920, but the minimum quota of any nationality is 100. Under this quota arrangement the countries of Western Europe are favored as against those of Eastern Europe, due to the much longer period that their nationals have been emigrating to the United States.

Each quota is under the primary control of a consular quota-control officer and no consul may issue a visa chargeable against a quota unless he has previously received from that officer a definite allotment of quota numbers. For example the quota control office for Italians, no matter where they may be, is Naples. If an Italian in London wishes to go to the United States as an immigrant, he will receive a visa from the allotment of quota numbers allocated to the London consulate general by the consulate general in Naples. The quota control officer does not control questions of admissibility or priority of aliens applying elsewhere. He is only responsible for making available numbers for issuance to aliens

⁵⁰ "The Immigration Work of the Department of State and Its Consular Officers," *Department of State Publication No. 703* (Washington, 1935), 1.

on the basis of reports received from other consuls and as shown by the recorded demand at his own office.⁵¹

Immigrants Admitted According to Quota—With respect to their admission into the United States, immigrants are divided into quota and non-quota groups. The quota group is divided into a first preference group consisting of the close relatives of citizens of the United States and skilled agriculturists up to fifty per cent of the quota. The second fifty per cent of the quota is divided into second preference aliens and non-preference aliens. The second preference group includes children and wives of alien residents of the United States. The non-preference aliens are those who remain after the first and second preference groups have been granted visas.⁵²

Inasmuch as non-preference applicants must be taken strictly in the order of their priority, consular officers are required to register applicants by some system which will insure correct priority status. The records of registration must be kept in registration books which are placed under lock and key. The record cards are also kept in locked filing cases and all correspondence with prospective immigrants is carefully preserved. In this way the priority status of immigrants is safeguarded against frauds or mistakes.

Non-Quota Immigrants—The non-quota immigrants are certain special classes who may be admitted to the United States at any time regardless of the quotas. Consular officers are required to verify carefully all statements made by immigrants who claim a non-quota classification. The following classes comprise the non-quota immigrants:

1. Unmarried children under 21 years of age, wives, and husbands by marriage before July 1, 1932, of American citizens;
2. Aliens returning from a temporary visit abroad;
3. Aliens born in Latin American Republics or in Canada, their wives and unmarried children under 18;

⁵¹ *Supplement A of the Consular Regulations* (July, 1932), Sec. VIII, Notes 254, 260.

⁵² *Regulations, Appendix A* (July, 1932), Sec. VII, Notes 229-243.

Immigration Visas—The Immigration Act of 1924 places upon American consular officers abroad the responsibility of keeping immigration into the United States within certain prescribed numerical limits. These restrictions are in addition to the various provisions of the immigration laws which generally exclude the following classes: mentally or physically defective, paupers or vagrants, diseased persons, criminals, polygamists, anarchists, prostitutes and procurers, contract laborers, persons likely to become a public charge, persons previously deported, persons financially assisted to come to the United States, stowaways, children unaccompanied, natives of the Asiatic Barred Zone and illiterates.

In the first ten year period after the passage of the Immigration Act of 1924 American consular officers examined more than three million aliens, issued more than two million immigration visas, issued approximately half a million non-immigrant visas and collected \$24,218,022 in visa fees.⁵⁰

The annual quota of any nationality for the fiscal year is a number which bears the same ratio to 150,000 as the number of inhabitants in the United States in 1920 having that national origin bears to the total number of inhabitants in the United States in 1920, but the minimum quota of any nationality is 100. Under this quota arrangement the countries of Western Europe are favored as against those of Eastern Europe, due to the much longer period that their nationals have been emigrating to the United States.

Each quota is under the primary control of a consular quota-control officer and no consul may issue a visa chargeable against a quota unless he has previously received from that officer a definite allotment of quota numbers. For example the quota control office for Italians, no matter where they may be, is Naples. If an Italian in London wishes to go to the United States as an immigrant, he will receive a visa from the allotment of quota numbers allocated to the London consulate general by the consulate general in Naples. The quota control officer does not control questions of admissibility or priority of aliens applying elsewhere. He is only responsible for making available numbers for issuance to aliens

⁵⁰ "The Immigration Work of the Department of State and Its Consular Officers," *Department of State Publication No. 703* (Washington, 1935), 1.

only does the applicant insist upon his satisfactory financial status, but his relatives and friends in the United States correspond voluminously to the same effect. Many are able to enlist Congressional support, and the zealous consul has to make a water-tight case to prevent a backfire upon the Department.

A few typical instances will indicate the difficulty of the problem. Mr. X comes into the consulate at Glasgow, passes the physical and mental tests and on the whole is a very desirable type. But, although he has over \$500 in cash, after paying his expenses to the United States, he has no prospect of a position nor any close friends to aid him, so the consul is forced to refuse him. A woman in Naples with 20,000 lire was kept out of the United States because in spite of these funds it was found that she had gone on relief. Mr. K of Vienna claims to be going to a brother in New York who has promised to support him, and has letters to that effect. But there is no proof that Mr. K's correspondent is his brother, nor that he is financially able to support the applicant, even if he were willing. A young lady, also Viennese, is going out to her uncle who is to support her. In this case the relationship is proved and the uncle's financial status guaranteed by Dunn and Bradstreet.

Sometimes the applicant, although refused on several counts, returns again and again to the application desk. Mr. M——, a German Jew, applied with his wife and four children in 1927 at the Berlin Consulate General. He had a clear police record, but his wife was weak mentally. In 1928 a new application showed that the physical record had been cleared, but the family had no sure means of support. The next year there were almost weekly calls, letters from the applicant's father and brother in the United States, letters from Congressmen and political bosses, but it now developed that he had flat feet and was unable to earn a living. In 1933 the whole family renewed the application and one daughter was found to be mentally defective and there was still no proof as regards the income of the father and brother. In 1934 when a new police record was demanded it was found the applicant had been convicted of issuing counterfeit money. He confessed to a false statement in the first application and to bribing of a police official to obtain the first record.

Since the advent of the Nazi régime in Germany many Ger-

man Jews, particularly professors, lawyers and doctors, have sought to emigrate to the United States. As Vice Consul William W. Adams pointed out,—since the German government allowed a maximum of 2,000 marks to be taken out of the country, unless the applicant had a position in the United States, the liability to become a public charge was almost impossible to overcome. Contracts with hospitals or schools which do not violate the contract labor clause were regarded as sufficient. One case cited seemed to indicate there are still gaps in our legislation which was designed to protect American professional workers.

Doctor M—— C—— comes to the consulate with a contract from an American hospital to take charge of its X-ray department. The contract is to run for two years at \$5,000 the first year, \$6,000 the second, plus a percentage of the receipts. The visa had hardly been issued before the State Department transmits a resolution passed by the Roentgen Society condemning the practice of employing foreign physicians in the United States at a time when many Americans are unemployed. Mr. C——'s case is cited as an example; he has taken the position formerly held by an experienced American physician. Shortly before his departure Mr C—— is able to obtain visas for his niece and his cook, simply by guaranteeing their economic status.

Immigration Frauds—The stringent restrictions imposed upon aliens coming to the United States have stimulated efforts to circumvent the immigration laws. Aliens who have been refused visas will spend to their limit to get into the United States, and not be overly squeamish at the methods employed. One of the instances where a steamship company was found to be implicated in immigration frauds occurred in Athens. It was learned that certain steamship agents were sending aliens illegally to the United States by providing them with fraudulent reentry permits. The steamship company would purchase valid Department of Labor reentry permits from persons returning from the United States and then help them obtain non-quota visas. These reentry permits were sent to Washington for extension, then falsified to permit the illegal entry of an excluded alien. It was claimed that one company had 2,000 of these permits. The Contonis Brothers Company of Athens was the chief offender and when their establish-

ment was finally raided at the instance of Consul General Leland B. Morris, it was discovered that they had an outfit for counterfeiting visas and other United States official documents.

The Urban gang in Warsaw was another notorious group of swindlers which made huge sums of money at the expense of ignorant aliens. They would obtain high fees for assisting Poles to obtain necessary papers when such papers could have been obtained at no cost to the emigrant. They would also persuade the prospective immigrant that an earlier entry could be obtained for him and then send him on a circuitous journey in Europe with no result. American reentry permits were obtained from returning aliens and the names and pictures changed to suit the immigrant applicant. Community chiefs were bribed to certify to the identity of the changed document. Passports were tampered with, visas were forged and every sort of trick utilized to make money out of the eager immigrant.

In Budapest a former cabinet officer extorted 800 pengoes from a young Jewess who wished to emigrate to the United States. In this case he collected the money on the strength of his alleged influence with the American consul which would enable him to obtain visas beyond the yearly contingent. When he failed to keep his promise, a threatened suit succeeded in getting a refund of the money. Consul General James Stewart made it known that the American Consulate General would investigate thoroughly all rumors pertaining to profit in visa matters and when it was learned that a minor official in the Hungarian passport bureau had declared that visas could be easily obtained by the payment of 400 pengoes to the proper person an investigation exposed the falsity of the statement.

Burden of Consular Immigration Control—Some idea of the heavy burden of work imposed upon some consular offices by the task of controlling immigration abroad may be obtained from the records of the American consulate-general at Naples. On days when the prospective immigrants are examined there is a long waiting line of those who have been invited to call for a visa examination. Practically the entire consular force has to be detailed upon this work of examining and checking to get the numbers through in time for the next boat departure. For the year 1933

the Naples office took care of 8,790 citizenship services and 7,528 immigration services. When it is remembered that a good share of the citizenship and passport cases are a vital part of the control of immigration, the work of our consular officers in keeping out unwanted aliens may be appreciated.

CHAPTER XXI

CONSULAR PRIVILEGES AND IMMUNITIES

The Representative Character of Consuls—Publicists and authorities have not been able to agree as to the representative character of consular officers, hence there is a corresponding disagreement as to the privileges and immunities which should be accorded them. There seems to be almost unanimous agreement that a consul has a public character. Fauchille declares this position to be "uncontested and incontestable"¹ But when the question is raised as to whether consuls have the same character as public ministers or representatives, although some authorities take an affirmative stand, the majority reply in the negative.² There is no doubt, however, but that the consul possesses a status such that he is entitled to enjoy those privileges and immunities which are essential to the performance of his duties.

The *Consular Regulations of the United States* while conceding that consular officers have no acknowledged representative or diplomatic character as regards the country to which they are accredited nevertheless claims for them a certain representative character as affecting the commercial interests of the country from which they receive their appointment.³ The following paragraph expresses clearly the present attitude of the Department of State:

Although consuls have no right to claim the privileges and immunities of diplomatic representatives, they are under the special protection of international law, and are regarded as the officers both of the state which appoints and the state which receives them. The extent of their authority is derived from their commissions and their exequaturs. It is believed that the granting of the latter instrument,

¹ Paul Fauchille, *Traité de droit international public* (Paris, 1926), I, Part III, 125.

² See the excellent study by Irvin Stewart, *Consular Privileges and Immunities* (New York, 1926), Ch. I

³ *Regulations* (February, 1931), Sec. 71.

without express restrictions, confers upon a consul all rights and privileges necessary to the performance of the duties of the consular office. Generally, a consul may claim for himself and his office not only such rights and privileges as have been conceded by treaty, but also such as have the sanction of custom and local laws, and have been enjoyed by his predecessors or by consuls of other nations, unless a formal notice has been given that they will not be extended to him.⁴

The United States has not always taken this stand. In fact, for many years the United States was disinclined to grant consuls any special status under international law. Secretary of State Jefferson, writing in 1791, declared that "the law of nations does not of itself extend to consuls at all."⁵ When in 1835 Secretary of State Forsyth requested an opinion from the Attorney General on the immunities of foreign consuls, Attorney General Butler declared that in his opinion "foreign consuls in the United States are entitled to no immunities beyond those enjoyed by persons coming to this country in a private capacity from foreign nations, except that of being sued and prosecuted exclusively in the United States courts. . . ."⁶

Attorney General Cushing in discussing the right of consuls to celebrate marriages took the more modern view in 1854 and asserted that "consuls do unquestionably enjoy certain privileges of exemption from local and political obligations. . . ."⁷

In order to discover just what are the privileges and immunities of consuls it is necessary to examine the laws of the sending and receiving states, treaties which they may have entered into, whether bilateral or multilateral, and the general customs and usages applicable to the subject. Generally speaking, considering the conventional nature of the institution, the principle of reciprocity must be recognized as governing the privileges and immunities of consular officers.⁸ They inhere in the institution itself inasmuch as they are essential to the proper performance of consular duties. Since they are not personal in any respect, only the government which the consul represents can waive them.

⁴ *Regulations* (February, 1931), Sec 72.

⁵ John Bassett Moore, *Digest of International Law* (Washington, 1906), -V, 33.

⁶ 1 *Opinions U S Attorney General*, 1005.

⁷ 7 *Opinions U. S. Attorney General*, 18.

⁸ Francis Wharton, *A Digest of the International Law of the United States* (Washington, 1886), I, 768.

Right of Protection of Consuls—Although a consul may not claim the absolute inviolability of a diplomatic agent, it is expected that a state will accord him the respect and protection to which his public character entitles him. Unfortunately, when public opinion is aroused against a foreign state a mob is quite likely to vent its wrath upon the unhappy consular representative of that state. During the trial of Sacco and Vanzetti in Boston it was said that practically every American consul all over the world received protests ranging from polite notes to bombs exploded in their doorways.⁹

An even more serious international situation arises when officials of the government which should guarantee protection to the consul are implicated in the assault. An incident of this sort occurred in San Salvador in 1890 when the United States consulate was violated by the forces of the provisional government and Consul Meyers was subjected to personal indignities and hardships. Secretary of State Blaine insisted upon suitable apologies and an indemnity both for the damage to the consulate and for the personal injury to the consul.¹⁰

Mr. Goldschmidt, American consul at La Guayra, Venezuela, was subjected to a series of insults and threats during the year 1900 by civilians and police officers. Secretary of State Hay finally took up the matter through Mr. Loomis, American Minister to Venezuela, and warned the Venezuelan government that threatening the life of the consular representative of a friendly Power could not be treated with indifference or lightly put aside and the government of the United States would hold that of Venezuela to a strict accountability for any harm or insult that might be wantonly inflicted on Mr. Goldschmidt.¹¹

Several serious cases of assault upon the persons of American consular officers have occurred in the Far East since the Japanese have been carrying out their imperialistic policies in China and Manchuria. Vice Consul Arthur R. Ringwalt, while accompanying an American born Chinese woman in the streets of Shanghai in an effort to find her daughter, was attacked by Japanese volunteers, although he carried a United States diplomatic passport,

⁹ Richard F. Boyce, "The American Consul and What It Means to Be One," *Christian Science Monitor*, October 26, 1929.

¹⁰ Moore, *op. cit.*, V, 51.

¹¹ *Foreign Relations of the United States, 1900, 952.*

a passport from the Japanese consulate and a pass from the Shanghai Municipal Council. In this case Secretary of State Stimson received an apology from the Japanese government.¹²

A much more serious incident occurred a month earlier in Mukden when three Japanese sentries beat and badly disfigured Consul Culver B. Chamberlain, who was on his way to catch a train to Harbin where he had just been assigned. Although his motor car was flying the American flag with the American Consul General's coat of arms prominently displayed, it was stopped and entered by the Japanese sentries who thereupon violently attacked the consul, striking him repeatedly in the face. In this case the Acting Consul General of Japan called upon the American Consul General and expressed his deepest regrets and a representative of the Japanese Army Headquarters expressed his regret to Mr. Chamberlain. Not considering this sufficient, Secretary of State Stimson made a vigorous protest to the Japanese government through its ambassador in Washington,¹³ demanding adequate punishment of the guilty parties. The Japanese government agreed to punish the sentries.

One of the most atrocious attacks ever made upon an American consul occurred in Teheran, Persia, on July 18, 1924. Major Robert Imbrie, American Vice Consul at Teheran, accompanied by another American and a legation messenger, attempted to take a picture of a drinking fountain where a miracle was supposed to have happened. A large crowd had gathered around the fountain and when Major Imbrie took his photographs stones were thrown at him. The two Americans and the messenger got into a cab, but the mob followed shouting that the foreigners had poisoned the fountain. A group of soldiers and officers stopped the carriage and attacked the Americans with sabres and bayonets. The police finally rescued the badly injured occupants of the cab and took them to the hospital. The mob followed, broke into the hospital and literally beat Major Imbrie to death.

The Persian government immediately took action and arrested some 200 persons. The day after the murder the entire diplomatic corps sent a collective note to the Persian government protesting its failure to accord protection. The United States demanded

¹² *New York Times*, February 14, 15, 18, 1932.

¹³ *Ibid.*, January 4, 5, 1932

reparation, apology and punishment of the guilty parties. As reparation a payment of \$60,000 to the widow was required. The Persian government was also asked to pay the expenses incurred in sending an American man-of-war to receive Vice Consul Imbrie's body. A suitable Persian military guard of honor was to escort the body to the boat. The death penalty was demanded for the ringleaders of the mob. All demands were promptly met by the Persian government. Sixty thousand dollars was paid over to Mrs Imbrie and \$3,000 to Mr. Seymour, who recovered from his injuries. The *Trenton* was saluted upon arrival and a guard of honor, including eight officers,—one a general, accompanied the body. Three ringleaders of the mob were executed and thirty others punished. The sum of \$110,000 was paid to the United States for the expense of sending the U. S. S. *Trenton* to bring back the body.¹⁴

Inviolability of Archives and Offices—It has become a well accepted principle of international law that the consular archives are inviolable. The term *archives* regularly includes all official documents, records and papers filed in the consulate. This immunity generally includes the inviolability of the consulate or at least that part of the building in which the archives are housed. The immunity, however, does not extend to the private papers or personal effects of the consuls, nor, in the absence of treaty provisions, is the consulate free from visit and search.

According to Dr. Irvin Stewart, "the inviolability of consular archives is covered more completely by treaty than is any other of the consular privileges."¹⁵ In the treaty of friendship, commerce and consular rights signed by the United States and Germany December 8, 1923, it is provided that "the consular offices and archives shall at all times be inviolable. They shall under no circumstances be subject to invasion by any authorities of any character within the country where such offices are located."¹⁶

The multipartite convention signed by the Latin American States on February 28, 1928, at Havana is equally explicit. Article

¹⁴ For additional information see *The Near East*, XXVI, 166 (August 14, 1924) and the *American Journal of International Law*, XVIII, 768 (October, 1924).

¹⁵ Stewart, *op cit*, 59.

¹⁶ *United States Treaty Series*, No. 725, Art. XX.

18 declares that "The official residence of the consuls and places used for the consulate's office and archives are inviolable and in no case may the local authorities enter them without the permission of the consular agents. . . ." ¹⁷

In the early editions of the consular regulations no mention was made of the inviolability of the archives, and in the regulations of 1868, where mention is first made, the position taken is somewhat hesitant. It states that as a general rule the records and papers of the consulate are inviolable but concedes that the rule is by no means universally admitted. Subsequently the assurance becomes firmer and the present wording that the consul "may claim inviolability for the archives and official property of his office and their exemption from seizure or examination" ¹⁸ has not changed since it was first inserted in the regulations of 1881.

A famous exception to this now well established rule of the inviolability of consular archives occurred in 1858 when the consular property of the United States in Manchester, England, including the archives, was seized as security for the payment of a private debt of the consul.¹⁹ Although W. E. Hall relegates this case to the realm of fiction ²⁰ an investigation by Dr. Stewart in the records of the Department of State supports the truth of the incident.²¹

Although no other exception to the rule has been discovered numerous violations of the rule have occurred. In such cases, however, the violations have been the subject of diplomatic protest and have usually brought about apologies, punishment of the guilty and reparation for the damage done.

When in 1887 in Piura, Peru, the local authorities in executing a judicial process against the furniture of the United States consular agent there had broken open his office desk, scattered the archives about the room and carried away several parcels of official papers, the legation at Lima was instructed to ask for a disavowal of the acts, a reprimand for the local authorities and a guarantee that such an incident should not recur.²²

¹⁷ *Sixth International Conference of American States: Final Act* (Habana, 1928), Article 4, *Convention on Consular Agents*.

¹⁸ *Regulations* (February, 1931), Sec. 73

¹⁹ Lawrence's Wheaton, *Elements of International Law* (London, 1864), 427, Note 143.

²⁰ W. E. Hall, *A Treatise on International Law* (Oxford, 1895), 335, Note 2.

²¹ Stewart, *op. cit.*, 40.

²² Moore, *op. cit.*, V, 52.

Shortly before the outbreak of the Spanish American War a mob attacked and demolished the American consulate at Malaga, Spain. The civil governor of Malaga restored the coat of arms that had been taken away and expressed his regrets for the attack. The Spanish government also expressed its regret and promised protection in the future for the persons and property of American consular representatives.²³

In 1914 when the relations between the United States and Mexico were quite critical, the American Vice Consulate at Saltillo was entered and the records and official code book removed. The Vice Consul was imprisoned and kept in confinement for several weeks. The State Department protested vigorously and the consul was released.²⁴ Undoubtedly more drastic action would have been taken if the United States had not been faced at that time with more serious problems.

Display of National Arms and Flag—It has long been considered advantageous that a consular office be designated in such a way as to indicate its official character both to the nationals of the country represented and to the inhabitants of the country in which it is located. The customary method is for the display of the national arms above the doorway or upon the façade. This symbol serves the dual purpose of assuring the customary protection and of making the office more readily known to those seeking it.

The privilege of displaying the national arms is quite regularly conferred by treaty, although it has become so general that it is sometimes said to be based upon international law. The United States Treaty of 1923 with Germany provides that "consular officers may place over the outer door of their respective offices the arms of their state with an appropriate inscription designating the official office."²⁵ The *Regulations* prescribe that the arms of the United States should be placed over the entrance to the consulate unless prohibited by the laws of the country. Only one coat of arms is permitted in each post and it must be placed over the office devoted to consular business.

²³ *Foreign Relations of the United States, 1898, 1079.*

²⁴ *Foreign Relations of the United States, 1914, 660.*

²⁵ *United States Treaty Series, No. 725, Art. XX.*

The privilege of displaying the flag, although customary, is not so universal as is the privilege of exposing the national arms. Many consular treaties provide for it and the laws of most countries permit it. The 1923 treaty with Germany permits officers of both countries to hoist the flag of their country on their offices, including those situated in the capitals of the two countries.²⁶ Mexico for many years did not permit their own consuls to display the national flag, nor did they authorize foreign consulates to display theirs. In fact, in 1874, the United States consul at Tuxpan was not permitted to raise the American flag on a holiday. When an appeal was taken to the President of Mexico the position of the local authorities was sustained. In this case, however, inasmuch as other consuls had displayed their flags without hindrance from local authorities, Secretary Fish insisted upon a like equality for the United States.²⁷ Subsequently Mexico appears to have accepted the general rule. However, this question was again raised in 1912 and Secretary of State Knox asserted that the flag might be displayed not merely on certain holidays but at any time to designate the consular office so that it might be easily and generally known.²⁸

The United States *Regulations* authorize the consul to display the national flag on all occasions when he deems it appropriate, such as national holidays of his own country and ceremonial days of the country to which he is accredited. He is always authorized to hoist it as a measure of protection.²⁹ Very strict rules are enjoined upon the consul regarding the use and display of the flag and he must not permit any disrespect to be shown it.³⁰

Insults to the Flag—Occasions have arisen when insults to the flag have occurred and they are always protested vigorously. A story is told of Judge de Long, consul at Tangier during the Civil War period, who put two Americans, sympathizers of the South, in chains for making offensive and insulting remarks concerning the American flag. When other Southern sympathizers attempted to arouse a mob to attack the consulate, the Moorish viceroy sent

²⁶ *United States Treaty Series*, No. 725, Art. XX.

²⁷ *Foreign Relations of the United States*, 1874, 719, 730.

²⁸ *Foreign Relations of the United States*, 1912, 902.

²⁹ *Regulations* (March, 1933), Sec. 70.

³⁰ *Ibid.*, Note 1.

troops to disperse them. An American warship shortly afterwards appeared and the prisoners were delivered to the captain. The following day the consulate received a scroll fastened with red cord reading as follows :

Praise to the One God!

To the Clever and Wise Gentleman, Consul General for the American Nation.

We continue to make inquiries for your welfare. We are deeply penetrated with the expressions of gratitude made use of at your interview with us for the assistance we rendered you in removing the insults offered to you by the Christian subjects who surrounded the consular residence thus offering indignity to the American flag . . .

El Abbas

Son of the Prince of the Believers. May he rest in Glory.⁸¹

During the World War period the German consul in Lausanne on January 27, 1916, raised the German flag over the consulate in honor of Kaiser Wilhelm's birthday. A crowd collected and demanded that the German flag be taken down and the Swiss flag raised. When the consul refused, the mob thrust aside the police and hoisted one of their number who tore down the flag. In this case the protest of the German government was somewhat weakened by the fact that the authorities had requested the consul not to raise the flag because of aroused public opinion and the police had made an effort to prevent the outrage.⁸²

Exemption from Taxation—Although no established rule exists as yet regarding consular exemption from taxation, there is a decided trend towards the extension of the privilege. The United States has always maintained a fairly generous attitude in its treatment of foreign consular officers. Secretary Forsyth, writing in 1840, declared that all foreign consuls not engaging in trade and not citizens of the United States were exempted from all taxes, imposts and contributions except property taxes.⁸³ The present Federal laws exempt consuls and employees of consulates from all taxes on the income received from their consular services. In the

⁸¹ Frederick W. Seward, *Reminiscences of a War-Time Statesman and Diplomat* (New York and London, 1916), 219-225.

⁸² *Revue générale de droit international public* (Paris), XXIII, 340.

⁸³ Moore, *op cit.*, V, 86

District of Columbia they are free from personal property taxes and from the payment of licenses for their automobiles or dogs.³⁴

Freedom from taxation is usually granted on a strictly reciprocal basis established by treaty arrangement. The United States has signed forty-one treaties which to a greater or less extent obtain exemption from taxation for its consular officers.³⁵ The Treaty of Friendship, Commerce and Consular Rights with Germany of 1923—one of the most recent—provides that consular officers not engaging in trade who are nationals of the state appointing them shall be exempt from all national, state or local taxes levied upon their persons or property. They are also exempt from all taxes on their income received for their consular services. The sole exception concerns taxes on immovable property or income from such property.³⁶

Practically all states which grant any exemptions at all grant exemptions on the income of the consular officer received as compensation for his official services. Great Britain, which is notably strict in her treatment of consuls, grants an exemption in this case.³⁷ Secretary of State Seward wrote to Secretary of the Treasury Chase in 1863 that the Department of State was not aware that the income of any United States consul abroad derived from official sources was taxable by the governments of the countries where they resided.³⁸ However, some Canadian and American states impose provincial and state income taxes on foreign consuls. When in 1914 the American consul at Moncton, New Brunswick, protested against paying an income tax on his official salary, the Canadian authorities pointed out that British consuls in the United States, particularly in New York and Boston, had to pay income taxes. The State Department instructed the consul that no request for exemption was feasible as no guaranty of reciprocity could be given.³⁹ For other income the national regulations are so varied that the consular officer is expected to investigate for himself at the post to which he has been sent.

³⁴ *Regulations* (February, 1935), Sec. 427, Note 1.

³⁵ Stewart, *op. cit.*, 110.

³⁶ *United States Treaty Series No. 725*, Art. XIX.

³⁷ A. H. Feller and Manley O. Hudson, *Diplomatic and Consular Laws and Regulations* (Concord, 1933), I, 216, "Finance Act, 1930," Sec. 20.

³⁸ Moore, *op. cit.*, V, 87.

³⁹ Stewart, *op. cit.*, 127.

A considerable number of states exempt the sending state from payment of taxes on property used in the exercise of consular functions, although such exemption is often based upon the general principles of international law rather than upon specific treaty provisions. The American consul general at Hamburg in 1923 refused to pay a ground tax levied by the state of Hamburg on the building housing the consulate. Although in this case it was ruled that the levy was on the tenant in the form of additional rent the consul general stood on his contract of a fixed rental. No action was taken.⁴⁰

In the case of automobiles the tendency seems to be to exempt consuls from the payment of license taxes even though the automobile is used for his personal as well as consular uses. Less often the gasoline tax is also remitted. Brazil grants both diplomatic and consular officers free licenses with special plates which exempts the car from all taxes and imposts.⁴¹

Exemptions from Customs Duties—The majority of states have come to see the advantage of reciprocal exemption of customs duties for consular officers, particularly for their personal property and household effects upon first entrance into the country. The practice is based in some cases upon treaty provisions but more often a reciprocal exemption is granted by comity. Office supplies and stationery are quite commonly exempted, personal effects less often. A few examples will illustrate the varying practice: Argentina permits career consuls to bring in objects for initial installation and for public service duty free on a reciprocity basis.⁴² Belgium grants practically no greater exemption to consuls than to any other foreigners establishing themselves in Belgium. This exemption, however, covers the initial installation. The only exemption accorded is for official emblems and that upon a reciprocity basis. Even office furniture and paraphernalia are not exempt from the regular tariff régime.⁴³ Canada grants consuls general the same privileges as diplomatic officers. Consuls are given exemption for personal and household effects on their first arrival only, but office equipment and supplies sent directly by the government

⁴⁰ Stewart, *op. cit.*, 106.

⁴¹ Feller and Hudson, *op. cit.*, I, 164.

⁴² *Ibid.*, I, 43, "Decree of February 9, 1926," Art. 43.

⁴³ *Ibid.*, I, 92.

are admitted free of duty.⁴⁴ Great Britain permits on a reciprocity basis free entrance of official supplies regularly and also exemption of baggage examinations of career consuls upon first arrival.⁴⁵ France admits shields, seals, flags, books, archives, and official documents addressed to consular officials duty free on a reciprocity basis. American consular officers are accorded by special favor the benefit of free entry for household goods, furniture and articles of all sorts destined for usage of their consulates.⁴⁶ Italy grants exemption for all effects and furniture on first entry upon a reciprocity basis, but the exemption does not include articles of food and drink.⁴⁷ The Netherlands grants free entry at all times to official supplies and all articles for personal and family use.⁴⁸

The United States in the consular regulations issued in 1868 declared that no authorization had been granted to the Treasury Department to exempt consuls from customs duties.⁴⁹ The regulations issued in 1881 stated that the United States customarily admitted all articles for official use of foreign consular officers free upon a reciprocity basis.⁵⁰ The present regulations permit free entry of personal and household effects upon arrival or return to consular ports. Supplies such as office furniture and material are entered free of duty. The privilege in both cases is upon a reciprocity basis.⁵¹

During the era of prohibition the Secretary of State refused permission for a newly appointed consul at San Francisco to enter twenty boxes of wine, but permitted the free entry of sixty-two boxes of household goods and effects.⁵² It is hardly probable that since the repeal of the eighteenth amendment a consul would be asked to pay duty on such liquor as was brought in with his household effects upon arrival in the United States.

Amenability to Civil and Criminal Process—According to international law a consular officer is subject to both the civil and crim-

⁴⁴ Feller and Hudson, *op. cit.*, I, 222.

⁴⁵ *Ibid.*, I, 217.

⁴⁶ *Ibid.*, I, 539.

⁴⁷ *Ibid.*, I, 716.

⁴⁸ *Ibid.*, II, 883.

⁴⁹ *Consular Regulations* (1868), Sec. 10.

⁵⁰ *Ibid.* (1884), Sec. 421.

⁵¹ *Ibid.* (February, 1935), Sec. 427, Note 2.

⁵² Stewart, *op. cit.*, 125.

inal jurisdiction of the local courts. It has become a well established rule in consular conventions that consuls are responsible to the laws of the place of their residence in both civil and criminal matters.⁵³ There are no treaties of the United States which relieve a consul of liability to civil suit. In criminal jurisdiction no exemption can be claimed unless by specific treaty provision.

Numerous cases might be cited in support of this well established principle. In the much quoted *Barbuits Case* decided by the Court of Chancery in Great Britain in 1735 it was held, supporting the opinion of Barbeyrac, Wicquefort, and others, that the commercial agent of the King of Prussia in Great Britain was not entitled to the privileges of international law possessed by ambassadors. Hence the defendant was subject to suit under municipal law.⁵⁴ In another often cited case, *in re Baiz*, decided in 1889, the Supreme Court of the United States held that the consul general of Guatemala, who alleged that he was exercising diplomatic functions, was not a public minister within the intent of the statutes of the United States, and therefore could not claim exemption from civil suit.⁵⁵

When in 1893 the United States consular agent at Haida, Austria, left his post owing a number of debts, one of his creditors brought suit and obtained an order for certain of the agent's belongings. His successor refused to surrender the articles. The Austrian government protested, maintaining that neither by law nor treaty did immunity covering archives and papers against search and seizure extend to other objects. Instructions were thereupon given by the Department of State to permit the seizure of the agent's personal property to satisfy any claim against him.⁵⁶

Although it is generally conceded that a consul is subject to suit, the money received from the government to pay the salary of the officers is not usually subject to garnishee before it has been paid over. A case of this sort occurred in the United States consulate general in Berlin in 1912. When the consul general protested against the attachment proceedings, the court dismissed the case. In a somewhat similar case which occurred in Maracaibo, Vene-

⁵³ *Regulations* (February, 1931), Sec. 73.

⁵⁴ Edwin D. Dickinson, *The Law of Nations* (New York, 1920), Case 587.

⁵⁵ Manley O. Hudson, *Cases on International Law* (St. Paul, 1929), 848.

⁵⁶ *Foreign Relations of the United States, 1894*, 27.

zuela, in 1913, the Secretary of State instructed the consul that although consuls were generally subject to the jurisdiction of the local courts, the government of the United States did not recognize the right of the Venezuela courts to exercise control of government money in the consul's possession due as salary to the clerk.⁵⁷

There are very few cases of arrest in civil actions, but in criminal cases the consul is fully subject to the local laws. However, a study of instances which have occurred would seem to indicate that consuls are rarely arrested for minor offenses and that even in serious offenses an effort is made to protect the interests of the appointing government.

A case occurred in Philadelphia in 1815 which almost caused the severance of diplomatic relations between Russia and the United States. The Russian consul general, Mr. Kosloff, was arrested on the charge of having raped a twelve-year-old girl who was a servant in his family. He was put in jail and later bound over to the next session of the court. The state court dismissed the case through lack of jurisdiction over a consul, and as rape was not a crime under federal laws, no further judicial action was taken. The Russian government, however, objected to the arrest and asked reparation through its diplomatic representative in Washington. The United States showed that Mr. Kosloff had received the full protection of the law and was the more surprised at the Russian attitude since the Russian government admitted that a consul deserved no protection from the law of nations in such a case.⁵⁸

Commenting on the arrest of the United States consul general at Montreal, Canada, in 1863, on a charge of kidnapping, Secretary of State Seward declared that the Department did not consider a consul general entitled to any diplomatic immunity.⁵⁹ When in 1895 the American consul at Mozambique shot and wounded a native African whom he mistook for a burglar, he was tried by the Portuguese authorities. When a full acquittal was not awarded him the consul appealed to the Department of State. The United States, however, refused to accede to his request unless there had been a plain denial of justice.⁶⁰

⁵⁷ Cited by Stewart, *op. cit.*, 152-153.

⁵⁸ Moore, *op. cit.*, V, 65.

⁵⁹ *Ibid.*, V, 70.

⁶⁰ *Ibid.*, V, 71.

The United States has upon occasion exacted severe penalties from foreign consuls. The German consul general at San Francisco, the vice consul and a consular attaché were arrested in 1917 and convicted of a conspiracy to destroy munitions. All received heavy penalties, the vice consul and consular attaché receiving life sentences.⁶¹

An interesting case arose recently in Germany when United States Vice Consul Shiras Morris, who was driving from Stuttgart to Munich on his way to a vacation resort in Italy, killed a man on a bicycle who suddenly crossed the road. The damage to the automobile and the position of the body indicated a high rate of speed. The Treaty of 1923 with Germany, Article XVIII, exempted consuls from arrest except when charged with the commission of offenses locally designated as crimes. As it appeared that the consul was guilty of fast driving resulting in the death of the cyclist, an arrangement was made whereby the consul was transferred to Marseilles. Inasmuch as the man was a ne'er-do-well and his wife, who received the insurance, did not desire to prosecute, the German government raised no objection to the transfer.

Serving as Witness—Although no hard and fast rules may be laid down, the following principles are generally observed in cases which raise the question of the consul's attendance as a witness. A consul is generally exempt from serving as witness in the trial of a civil case. In a criminal case a consul may be required to give testimony orally or in writing at his residence or office, or even to attend the trial personally as a witness. In such cases the requirements are enforced with due regard for the dignity and convenience of the consul. In serving as a witness the consul may not be required to disclose information received while performing his consular duties which would be incompatible with the interests of the state that he represents.⁶²

A case illustrative of the procedure required occurred in Germany in 1899 when Consul General Richard Guenther was served with a subpoena to appear and give testimony in a pending suit. A threat of fine and imprisonment was attached to the summons. Consul General Guenther agreed to testify, but protested against

⁶¹ *New York Times*, January 11, 1917.

⁶² *Foreign Relations of the United States*, 1899, 567.

the threats of fine and imprisonment. The Department of State, through the American ambassador, sustained the consul general. It was discovered that the summons had been made out in the usual form by mistake, and a polite letter was sent asking Mr. Guenther to appear, and a verbal apology was given by the official of the court.⁶³

A very interesting case in which the consular officer refused to give testimony on the ground that the evidence which he could present was given to him in confidence occurred in Ontario, Canada. An American woman married to a Canadian kept a hotel in a good location. A bootlegger wished to obtain the place and when other means failed claimed that she was diseased and had contaminated a Canadian husband. The authorities insisted that she should undergo a physical examination. The woman came to the American consul and asserting that the demand was a frame-up asked for a physical examination by a physician whom he could recommend. The examination showed that she was not diseased. Indignant at the injustice of the accusation the woman decided to sue the Public Health Service. Again she was examined, this time by the Health Service, but no report was made. She entered suit and her attorney wished the consul to testify. He refused and the judge thereupon sent a summons. The consul explained that the Department had instructed him not to testify, but the judge refused to compromise and threatened jail if the consul did not appear. Fortunately a settlement was reached on the morning of the trial whereby the woman was to receive a small sum for injury to her character.

Consuls in Times of War—There is not the same need today as formerly to consider the situation of the consul in times of war because war conditions of the present render all consular activities impossible between belligerents. Some of the older writers, Bluntschli, for example, favored the retention of the consuls at their posts in spite of a state of war. In fact, the enemy powers did not break off consular relations during the Crimean War. However, today when war requires the mobilization of every national activity to crush the enemy, the very first step is a complete severance of both diplomatic and consular relations. The only exception con-

⁶³ Moore, *op. cit.*, V, 81.

ceivable is when that anomalous situation arises of a state of conflict without any declaration of war or desire on the part of either disputant to regard it as war. The Sino-Japanese conflict of 1931-1932 is such an example. In his excellent study entitled *Les Consuls en temps de Guerres et de Troubles*, Dr. Bouffanais concludes that according to actual practice consular relations between neutrals are subject to the well established rights and duties of neutrality and rest upon the basis of the principles recognized on the subject at the time of the conflict.⁶⁴

Consuls in Extraterritorial Countries—In concluding this survey of consular privileges and immunities a word must be said regarding the status of consuls in countries where extra-territoriality still exists. In non-Christian countries where religious law was so intertwined with civil law that the foreigner could not hope to obtain justice unless removed from local jurisdiction the practice developed of permitting foreigners to be judged in accordance with their national laws. This exceptional régime was usually established by treaties and consuls were charged with this judicial function. As a result of this special jurisdiction consuls who possessed it were necessarily public ministers with the same status as diplomats. In fact, some of them had the dual status of diplomatic agent as well as consul, as is the case of the present American representative in Tangier.

Consuls in countries where capitulations or extraterritorial privileges still exist possess in addition to the regular privileges and immunities of diplomatic agents certain judicial powers in civil and criminal matters. These powers are complete for cases arising between foreigners of the same nationality and between foreigners of different nationalities. For cases between foreigners and natives there are several possibilities: sometimes there are national courts with the assistance of a consul or dragoman, as formerly in Turkey, sometimes there are mixed courts, as exist still in China, sometimes the case is judged by the officer of the nationality of the defender; and sometimes real international courts are established, as the international court of Tangier and the mixed courts of Shanghai and Egypt.

⁶⁴ Pierre Bouffanais, *Les consuls en temps de guerres et de troubles* (Paris, 1933), 239.

The question today no longer possesses the same importance as formerly because the capitulations have been suppressed in Turkey and Iran and in practically all the other countries of the Levant. Japan has long since freed herself from extraterritorial restrictions. China has suppressed them for some countries and is very desirous of eliminating all extraterritorial privileges still held by the foreign powers. Great Britain in draft treaties of 1929-30 regarding the independence of Egypt recognizes that the capitulatory régime is no longer in accordance with the spirit of the times. It would seem that this piece of "medievalism stereotyped" will soon disappear and consuls in all countries of the world will have the same status in international law.

CHAPTER XXII

A MODEL FOREIGN SERVICE ESTABLISHMENT—THE AMERICAN GOVERNMENT BUILDING IN PARIS

Paris possesses the unique distinction of having received the first American legation sent to any country in the world, and of possessing at the present time the finest building ever constructed by the United States for housing its foreign services abroad. In fact, the American government building facing the Place de la Concorde is the only building as yet owned by the United States which houses under one roof the embassy, consulate-general, commercial, military and naval attachés and the foreign representatives of the Departments of the Treasury and Agriculture. Therefore, since this establishment serves today as the model American government building abroad the present chapter will attempt to give a brief history of the way this building came to be built, the plan for its utilization, the personnel and the organization of its staff, and a picture of the varied and interesting work which is being done there.

American Envoys to France—Before taking up the present establishment it is in order to say a word concerning the type of men who have been named to conduct the diplomatic relations of the United States with France. When Benjamin Franklin, America's first foreign minister, was sent over to France by the struggling colonies in 1776 he was already well known by the intelligentsia of the day in Paris as a scientist and a philosopher. He brought over his grandson, a youth of sixteen, to act as his secretary and set up the first American legation in Passy. Today a bronze statue of the venerable diplomat stands overlooking the spot where he made an unsurpassed record in the protection and furthering of American interests abroad.

It should be noted, however, that Franklin was no tyro in the diplomatic game. Twenty years earlier he had been sent to London

by Pennsylvania on a difficult diplomatic mission which lasted five years. After two years at home he was again sent to London and this second mission lasted eleven years and during most of this time he was representing four American states. These sixteen years of training in the school of diplomatic experience combined with his outstanding reputation as scientist, philosopher and wit and his ability to speak French, Italian and Spanish placed him in an enviable position to achieve a remarkable success. His colleague, John Adams, declared that "his reputation was more universal than that of Leibnitz or Newton, Frederick or Voltaire, and his character more beloved than any of them . . . his name was familiar to government and people . . . to such an extent that there was scarcely a peasant or a citizen, a valet de chambré, coachman or footman, a lady's chambermaid or scullion in the kitchen, who was not familiar with it and who did not consider him a friend to human-kind. . . ." ¹ When Voltaire returned from exile in 1778 the two great men publicly embraced and the cry went up: "Qu'il était charmant de voir s'embrasser Solon et Sophocle." ²

The United States followed this policy of sending the best that she had to France by appointing Jefferson as Franklin's successor. No one appreciated better than Jefferson himself the difficulty of succeeding Franklin and when he was often asked the question, "C'est vous, Monsieur, qui remplace le Docteur Franklin?" he invariably replied, "No one can replace him, sir; I am only his successor." ³ Jefferson became just as great a friend of France as his predecessor and it was he who said, "To ask the travelled inhabitant of any nation 'In what country on earth would you rather live?' 'Certainly in my own, where all are my friends, my relations, and the earliest and sweetest affections and recollections of my life.' 'Which would be your second choice?' 'France.' " ⁴

That Morris and Monroe, the immediate successors of Franklin and Jefferson, were not as successful in their missions as their predecessors was due more to the political situation in France than to any lack of ability in the men. This is not the place even to enumerate the eminent men who have represented the United States

¹ Francis Wharton, *Diplomatic Correspondence of the American Revolution*, I, 488.

² E. E. Hale, *Franklin in France* (Boston, 1888), I, 171.

³ Beckles Willson, *America's Ambassadors to France* (London, 1928), 22

⁴ *Ibid.*, 37

in France, but such names as Gallatin, formerly Secretary of the Treasury and later minister to England, Carr, formerly Secretary of War and later Secretary of State, Richard Rush, who had served as minister to England, as Secretary of State and Secretary of Treasury before going as minister to Paris, Whitelaw Reid, who "added to the cleverness of the Americans the urbanity of the French", gives an idea of their calibre. In the case of Henry White, whose recall was due solely to personal reasons, the French government went so far as to direct their representative in Washington to do what he could to secure Mr. White's retention. The outstanding achievements of Ambassador Herrick are too recently in mind to require mentioning.

Lack of a Permanent Residence—We have noted that Franklin established the first American legation at Passy. It is said that more than three quarters of a century later John Bigelow, then minister to France, visited Passy to look up the remains of the first American legation and found a part of the original building still standing and used as a school by some Sisters of Charity. A little later a plan to purchase the site and construct a suitable legation upon it was proposed but nothing came of it.⁵ Jefferson found the Passy location too far removed, so he leased a house in what is now the rue Taitbout for a year and then procured a house at the Grille des Champs-Élysées suitable in every respect except for the price. Morris took a house in the Faubourg St. Germain which seems to have been equipped for abundant entertaining. He also kept up a modest place at Sainport on the Seine, about twenty miles from Paris. Minister Monroe retained the house in the Faubourg St. Germain taken by Morris. Barlow some years later established himself in the rue de Vaugirard. Gallatin found a suitable furnished residence at 21 rue de l'Université which his son described as very fine "entre cour et jardin."

So one might continue the story—*tant de ministres tantes de différentes maisons*. General Porter, one of the American ministers to France, said one might as well say that "the American Legation was on wheels, year before last it was on such a street, last year on another, this year I don't know where."⁶ Joseph Choate when

⁵ Willson, *op cit*, 5

⁶ *Century Magazine*, LXXVII, 784

ambassador to England was walking one night in London when he was accosted by a policeman, "I say, old chap, what are you doing walking about in this beastly weather. Better go home." "I have no home," replied Mr. Choate, "I am the American ambassador."

Fortunately this problem of hunting suitable quarters for an embassy residence no longer troubles the American ambassador to France. Myron T. Herrick, knowing that the United States Congress had finally agreed to the purchase of suitable quarters for America's representatives abroad, bought in 1924 with his own money the mansion of former President Grévy at Passy. He paid 5,400,000 fr. for it, but within a week the franc had so risen that a very considerable profit had been made. He then offered it to the government at the amount he paid for it, pointing out at the same time that he would be in the embarrassing situation of profiting in land speculation if the government refused to take it. The United States thereupon took over the purchase, furnished the building suitably and possesses today in Paris one of the few adequate American embassies abroad.

Lack of a Permanent Chancellery—The chancellery quarters of the United States for many years were merely certain rooms set aside in the minister's house. In fact, when James Brown terminated his service as minister in 1829 the papers of the legation were kept in an apartment of his house where the secretary also resided. Mr. Rives found this situation unsatisfactory and rented a separate apartment for deposit of the papers and as living quarters for the secretary.⁷ When John Bigelow, then consul in Paris, took over the legation in 1865 he said he found it in a part of Mrs. Dayton's apartments on the rue Circulaire opposite the Arc de Triomphe. It was later moved to 95 rue de Chaillot where it remained over a grocery on one side and a laundry on the other until 1881 when more suitable quarters were found on the Place de la Bitche. As the name of this square was the same as a very unfortunate expression in English the French obligingly changed it to Place des États-Unis. In 1885 the chancellery was moved to quarters at the corner of the avenue Marceau and the rue Galilée.

⁷ *Correspondence of the American Legation in Paris, October 28, 1829.* Mr. W. C. Rives to Secretary Van Buren.

Apparently these did not adequately satisfy the chancellery's needs for very long as Ambassador Eustis in 1897 reported that the offices were in every way objectionable, there was not sufficient room, the drainage bad and some of the rooms small and badly lighted.⁸ His successor, General Porter, found more suitable quarters at No. 8, avenue Kléber. Here they remained until 1913 when they were again moved, this time to No. 5, rue Chaillot. This was to be the last home of the American chancellery until it entered its present permanent quarters in the avenue Gabriel.

The New American Government Building—The present American government building owes its conception to a suggestion made by Senator Edge in 1925 while on a visit to Paris. He proposed to Ambassador Herrick that it might be feasible to construct a building which would house all the American governmental activities in Paris. Ambassador Herrick was enthusiastic over the idea and it was not long before he furnished Senator Edge with complete information as to the probable cost of housing as well as the approximate cost of sites and buildings. As Senator Edge was on the Senate Foreign Relations Committee he had a bill introduced authorizing the appointment of a Foreign Service Buildings Commission to purchase property and when necessary to construct buildings in which to carry on the manifold activities of the United States government in foreign countries. The bill was passed and \$10,000,000 was appropriated to carry out its provisions.

The site chosen for the Paris building was the northern side of the Place de la Concorde where it was found possible to purchase the eighteenth century mansion of Grimod de la Reynière occupied at the time by le Cercle de l'Union Artistique. The purchase was made on August 4, 1928, and the amount paid for the property was \$200,000. The choice of this spot was due to the desire to build as near the business center of the city as possible and at the same time to avoid the noise and darkness of a congested area. This location met these requirements ideally and included the additional advantage of the prospect of one of the finest public squares in the world, that of the Place de la Concorde.

The following year Messrs. Delano and Aldrich of New York

⁸ Willson, *op cit*, p. 364.

were appointed as architects of the building. Mr. Victor Laloux was chosen by this firm as consulting architect and Mr. John W. Chandler, an American architect practicing in France, as its Paris representative. Mr. Delano, a graduate of the Beaux-Arts, had spent many years in France, and had served as architect for some of the finest buildings in the United States.

From the very beginning it was the expressed desire of the Commission to house all the governmental activities of the United States in Paris under one roof. The architects carried out this plan in a very satisfactory fashion in the interior arrangements and at the same time made the exterior conform to the architecture of the Hotel Crillon across the street. A certain number of criticisms have been leveled at the structure by Americans who would have preferred a more original treatment, but certainly the simplicity of the building makes it fit admirably into its immediate surroundings.

The cornerstone was laid May 2, 1932, by Ambassador Edge who had participated so actively in the formulation and execution of the plan. He expressed the wish that in thus rounding out the plans of Jacques Ange Gabriel, the architect of Louis XV, who had planned the beautiful Place de la Concorde, a contribution might also be made to a greater symmetry in Franco-American relations. The building was formally accepted as completed on September 9, 1933, and the various governmental services commenced to move in immediately.

The building is a stone-faced, three-story, steel and concrete structure. It is set back far enough to afford a view of the entire façade from the entrance gates and to permit automobiles to come in and turn inside this enclosure. Unpaved areas of the yard are planted to lawn and low shrubs and the garden is further enhanced by a fountain motif. The architecture is modeled strictly upon the French buildings of the Place de la Concorde. A seal of the United States is set into the façade facing the avenue Gabriel and two American eagles sculptured from stone mount guard atop the pillars of the main entrance gates.

The interior of the building is strictly American with simplicity of line, color and treatment, and an abundance of light is available to practically all the rooms. An attractive staircase of stone leads from the ground floor where the consulate offices are

found to the embassy quarters on the first floor. The building has eight beautiful crystal chandeliers presented to the American government by the Cercle de l'Union Artistique. The fireplace and some of the fine old hardware also came from the old building of the Cercle.

The government building has a very large and finely proportioned hall for a library. At the present time there are some 2,600 volumes catalogued dealing with a great variety of subjects of interest to the various government services, including a complete collection of Duvergier's *French Laws and Decrees* from the first publication in 1788 to the present time. The embassy chancellery also possesses the Wallace Library, a fine collection of some 2,500 volumes dealing primarily with Franco-American relations, which former Ambassador Wallace presented to the United States government in 1930. This is housed in a beautifully furnished room which is used by the ambassador and his staff for conferences. A very large reception room tastefully furnished and approximately twenty offices complete the chancellery quarters.

Inasmuch as many more people use the consulate services than those of the embassy, the offices of the consulate are on the ground floor with a few on the mezzanine. The sixteen rooms and inner glass-roofed court furnish every facility for the comfortable and prompt despatch of business carried on by this agency. In addition to these rooms are the private offices of the more important consular officers.

On the second floor we find the commercial attachés, the agricultural attachés, the treasury attachés, the disbursing office, the public health offices, the Battle Monuments Commission, the National Advisory Commission for Aeronautics. On the third floor are the offices of the military and naval attachés and a privately maintained restaurant for the entire building staff. There still remain vacant some twenty-five rooms on the mezzanine floor partly due to recent curtailments in the various staffs and partly due to the provision made for a natural growth in personnel.

Personnel of the Embassy—With this brief survey of the construction and physical equipment of the American government building in Paris we can proceed to the more important subject—

the organization of personnel. Beginning with the embassy, we have at present some eleven officers, twenty-five clerks, and twelve messengers, making a total of forty-eight.

At the head of all American representatives is the Ambassador who is made solely responsible for the interests of his country in France. His is the sole authority to represent his government or to delegate such authority to an intermediary. Consequently, either he or one of his immediate assistants must deal directly with the French government to consider various problems which arise between the two countries.

The present ambassador, Jesse Isidor Straus,⁹ is not a career diplomat but a successful business man whom the President felt was equipped to deal with the many delicate and unsatisfactory questions which face the two governments. Inasmuch as present day problems are largely economic and financial, the choice of the head of a great mercantile establishment such as Macy's was a natural one. Furthermore, as Mr. Straus also speaks fluent French, is endowed with sufficient worldly goods to be able to afford the luxury of representing the government in perhaps the most expensive capital of Europe today and withal has a pleasing and engaging personality, the appointment has proved eminently satisfactory.

The relations between the United States and France today are not as cordial as they have been in the past. The United States feels that at a time of great financial need France not only refused to help but led the fight to repudiate pledged obligations. Granted that it was the stubborn and unreasoning attitude of the parliamentary bodies of each country that brought about the situation and that if left to the executives the problem either would not have arisen or, if it had, would have been settled quickly and amicably, nevertheless the peoples of each country reacted to what they read in the papers, and the press of both countries has been equally chauvinistic. Mr. Straus came to Paris with this debt problem at a complete stalemate, with neither country willing to compromise, and he has been wholly unable to advance the solution.

When the United States went off the gold standard it was thought that the foreign creditors would take advantage of the depreciated dollar and make tentative offers of settlement. The

⁹ The personnel as listed in this account is as of November, 1934.

French government, however, instead of being pleased at the opportunity of paying her debts at a discount of forty per cent, resented the dollar depreciation policy since it made more difficult her sale of luxury products in the United States and also made it more of a strain to stay on the gold standard herself. The result was a policy of retaliation evidenced in further limitations placed upon American trade by both quotas and higher duties which only augmented the existing friction between the two countries.

Under these conditions Mr. Straus' situation has not been quite as happy as it might otherwise have been, and the fact that he has been able to keep the economic *modus vivendi*, obtained by Mr. Herrick in 1927, still functioning through this period of nationalistic sandbagging of foreign trade is proof of his ability both as business man and diplomat. A story apropos of the situation is told which if apocryphal is nevertheless pertinent. At a diplomatic dinner tendered by a French statesman where the wines were rare and the liqueurs choice the American ambassador was asked to say a few words. After noting the long period of very happy relations between the two countries, Mr. Straus concluded by saying that he was afraid that present-day Americans when they heard the name Lafayette thought of the Galeries instead of the General. The French host, a little nettled by the possible implications of the allusion, contented himself with saying, "Macy, beaucoup, M. l'Ambassadeur."

Directly under the ambassador in authority is the counselor of the embassy who advises the ambassador and serves as chargé d'affaires in his absence. The counselor has general supervision of diplomatic negotiations and carries on many of them personally with the major government officials as well as reviewing all correspondence and signing or initialing much of it in the name of the ambassador. The counselor is also in charge of political reporting and owing to the strategic position of Paris in the European political arena this officer must have an expert grasp of the European situation from the economic and financial as well as political viewpoint.

At the present time Mr. Theodore Marriner, an experienced career diplomat, holds this important position. He has served in the American legations in Sweden, Rumania, and Switzerland, has served as adviser in the Division of Western European Affairs in

the Department of State, and later from 1927 to 1931 was the head of this important division. He acted as adviser to the American delegation at the London Naval Conference of 1930 and at the London Financial Conference of 1931. He was designated to accompany Prime Minister Laval on his visit to Washington in 1931. There is perhaps no man in the career service better equipped by experience and training to fill the post of counselor to the American ambassador in Paris.

Inasmuch as economic and financial interests are so vitally important today in the relations between the United States and France, two other first secretaries are assigned to the Paris embassy in these related fields. First Secretary, Mr. Williamson S. Howell, a trained lawyer, had diplomatic experience in London, Prague, Warsaw and in several Latin American ports before coming to Paris. He has been at his present post for more than five years and has become an expert in economic and commercial matters, particularly those involving questions of tariffs and taxation. Such specialization is required to protect American interests under the very complicated provisions of the *modus vivendi* of 1927. Mr. Howell has made an eighteen volume collection of all the documents pertaining to Franco-American economic relations from 1811 to 1930. This includes memoranda concerning various questions of interest to the American embassy in Paris, analyses of old conventions and commercial arrangements in addition to the *modus vivendi* of 1927 which still holds.¹⁰

There is also in the Paris embassy a financial secretary who must be a specialist in international, financial and banking matters and be acquainted with the workings of the Bank of International Settlements at Basel. He is expected to report financial currents in France and Europe, to evaluate bond issues, to pass upon and handle financial claims and serve as general financial adviser to the ambassador. Mr. H. Merle Cochran, the present incumbent, is particularly well equipped to perform these services. In addition to experience as a consular officer in many ports, he served at Basel during the establishment of the Bank of International Settlements. He has made himself an authority on this institution and on the Paris Bourse. He has served as adviser to the experts for

¹⁰ Mr. Howell was transferred early in 1935 to serve as consul-general in Calcutta.

the International Monetary and Commercial Conference and served on the American delegation at the London Economic Conference of 1933. He prepares a weekly report on the current French financial situation.

The Paris embassy has two officers whose positions are not found in any other American diplomatic post. The first is the position of press secretary established fairly recently due to the ever increasing demands of American newspaper men and French journalists for a point of contact with the American embassy. He is constantly available to the correspondents of the American news agencies as well as to representatives of the French press. As a natural complement to the work he does a considerable amount of political reporting. This officer is also responsible for a daily survey of the French press and for making available all material of value in preparing the agenda for important international conferences which concern the United States in Europe. The present incumbent of the office, Mr. S. Pinkney Tuck, has had wide diplomatic and consular experience, and has served in Geneva on the advisory commission on opium, on the preparatory commission for the limitation of armaments, and as a member of the American delegation at the 1927 Disarmament Conference.

The other unique position is that of special assistant in charge of what is called the European Information Center. This officer receives information from all the legations and embassies of Western Europe, correlates it and prepares a weekly news letter which is sent to Washington and to all legations and embassies in Western Europe. Paris is peculiarly well located for such a service and its utility is evident. The director of this work is Mr. R. T. Pell, a trained newspaper man, qualified not only to carry out this duty but also to serve as American representative in international press conferences.

Another secretary at the Paris embassy handles questions of a commercial nature including quota and trade restrictions which must be dealt with by the embassy rather than by the consulate-general or the office of the commercial attaché. The present tendency in France, as elsewhere, is to impose import turnover taxes, license taxes, exchange compensation surtaxes, as well as the ordinary tariffs, which makes the work of this secretary both complicated and arduous.

A junior secretary handles chancellery routine matters such as administration, personnel and routine foreign office correspondence. He also handles protection cases of American citizens who get into difficulties regarding their property or their taxes. Diplomatic visas and diplomatic and special passport questions are taken care of by this officer. Another junior secretary serves as private secretary to the ambassador. He handles the ambassador's routine official correspondence, his appointments, deals with incidental visitors, takes notes on some of the ambassador's conversations and accompanies the ambassador on many official occasions. He is also charged with the rather tricky question of protocol. This includes not only the proper seating of guests at dinner but also the handling of treaties and their arrangement as well as their ratification. This position requires tact, intelligence and a pleasing personality as well as the training and experience of a foreign service officer.

In addition to the staff of trained foreign service officers there is a large body of clerks and stenographers, making a total of approximately fifty employees in the embassy. When it is realized that the embassy annually sends about a thousand despatches to Washington, writes about 25,000 letters, receives about 8,000 callers and makes about 2,000 calls in return, the need for such a large staff is evident. But the more important work of the embassy in cultivating friendly relations with the French government, building up good will with the French people and giving the American government and its citizens information and assistance in the many phases of the complex international relationships of today is a field where the value is as great as it is intangible.

The Paris Consulate General—Descending the large open staircase to the first floor we come to the offices of the consulate general. Since Paris has the largest American colony in the world and more visitors come to Paris than to any other European capital, the American consulate-general in Paris is a very busy one. In the year 1933 it delivered 3,189 pieces of visitors' mail and forwarded 6,482 others. It must be confessed that there are occasions when it faces demands greater than its powers, as for example when a young lady from South Dakota sent a letter in care of the consulate asking that it be forwarded to some nice young, handsome

man between 18 and 20 years of age, with the further injunction to please give it to one that can speak and write English. No information was forthcoming as to whom it was delivered.

In addition to the many and varied duties which the consulate is called upon to perform for the casual visitor and tourist, there is a large amount of official routine work carried on here. In the year 1933 the American Consulate-General in Paris performed more than 20,000 invoice services; some 3,000 passports were issued, renewed or amended; its notarial services amounted to about 10,000; its protection and whereabouts and welfare cases amounted to about 1,500. It prepared over six hundred reports, many of them called for by other agencies of government. Its total number of letters sent and received amounted to about 30,000.

At the head of this business-like establishment is a consul general who outlines the general administrative policy of the office and has supervision over the other consular offices in France. He receives the more important visitors and keeps in contact with the American colony and with French official and commercial circles. He also maintains a close relationship with the embassy and the commercial attaché in connection with the coördination of trade activity. The present incumbent is Mr. Leo J. Keena,¹¹ a man with a wide background of experience in business and in the consular service. In addition to filling a number of Latin American posts he has served in Zurich, Warsaw, and Liverpool and at the time of writing has had over five years' service at his present post.

Directly under the consul general is the executive head of the administration of the consulate general. This officer is responsible for the office in the absence of the consul general. He has full jurisdiction over the personnel, advises with the consul general on policy and is consulted on difficult questions of citizenship and on any other problems which arise. Mr. Robert D. Murphy who is the executive officer at the Paris consulate at this time has been admitted to the bar, served in the Treasury Department and has acted as consul in Zurich, Munich and Seville before coming to Paris.

The specific duties of the consulate are divided into sections as follows: trade and economic work; notarial work; protection,

¹¹ In February, 1935, Mr. Keena was appointed United States Minister to Honduras.

whereabouts, welfare, information, shipping and sanitation services; documentation of merchandise, citizenship and passport cases; visa and immigration work, records and accounts; correspondence, indexing and filing; and finally the public mail room. In charge of these services are five career consuls and six vice consuls not of career. Four other non-career vice consuls are in the district accounting and disbursing office. The total personnel of the consulate general including clerks, stenographers and messengers, and the disbursing office is fifty-one.

Rather than adduce a specific list of the services performed in these various departments, a few examples of the many and varied cases which the Paris consulate general has been called upon to handle will illustrate the work:

An American died in the American hospital. The consulate general made the funeral arrangements, liquidated the estate and shipped the effects of the deceased to the family.

An American girl was killed in an aeroplane accident. The consulate general aided in settling the insurance claims and the father received a check for 150,000 francs from the *Compagnie Internationale de Navigation Aérienne*.

An American woman was taken ill in a Paris hotel. The manager phoned the consulate which had her removed to the American hospital and her effects packed and stored.

An American boy went violently insane and seriously wounded two people. The consulate aided his mother to obtain his release from the asylum to take him back to the United States.

French law is notably strict as regards the employment of foreigners, but does permit certain specialists to practice their professions. Two American specialists in acoustics who were in difficulties were able to obtain workers' permits through the American consulate.

An American woman gave a hotel elevator boy a 1,000-franc note to be changed. The boy disappeared. When the hotel refused to be held responsible, she appealed to the consulate general. An investigation showed that the name and address of the boy and his parents had not been taken by the hotel when the boy was employed. This was a serious violation of French law, and the woman was advised to tell the police her story. The hotel was held responsible, and she was reimbursed.

Flowers are placed every decoration day on the tomb of an American girl who died in Paris, and during the year the grave is cared for at the request of relatives who send a check regularly to the consulate for this purpose.

Two American seamen jailed as a result of a fight with a taxi driver were freed upon promising to pay 500 francs to the taxi driver. The consulate aided in obtaining a settlement, but was not able to guarantee payment.

An American firm shipped goods to a Paris shop which was unable to pay for them. The consulate took over the goods and had them shipped back to the American firm.

A New York laboratory wrote the American consulate in Paris that it appreciated its detailed report regarding the market possibilities of their product in France. "Your reports are most complete," the letter stated, "and the information contained is most valuable to us."

The consulate general received a commission from a New York firm to take testimony from a man in Paris regarding a very important law suit.

Becoming suspicious of a woman when she was examined for a visa on her passport, the consulate notified the immigration authorities who checked up her record and found she was a white slaver and narcotics smuggler. She was intercepted at New York and deported.

Mr. R—— refused to give a plausible statement for the purpose of his visit to the United States. A check against the office card catalogue list of undesirables indicated that he was a black-mailer who had extorted many thousands of dollars from a prominent American family. The consulate general did not grant his visa.

Inquiries regarding entrance of various commodities such as antique furniture, seeds, and plants, and pedigreed dogs are answered; also requests for information regarding marriage and divorce laws; copies of canceled postage stamps are sent; no reasonable request for service from an American citizen is refused if it can be performed.

Enough has been said to show the varied tasks which the Paris consulate general performs and their great importance to the individuals concerned. It is perhaps these personal attentions which

make the consular service better known to the ordinary American citizen than is the diplomatic branch. Perhaps, also, the performance of these services makes the consul a little more friendly and human and therefore on the whole better liked than his diplomatic colleague. But both services are equally essential and the policy of housing them together under one roof should make them more helpful to each other as well as to the government which they represent.

Advantages of Centralization—In addition to these two principal services the American government building houses a number of other American governmental services in Paris. The military and naval attachés who are regularly part of the embassy have excellent quarters here and can thus more conveniently cooperate with the ambassador and his staff. The same is true of the commercial attaché whose work if separate is liable to overlap that of the consular officers. The disbursing office is also an essential part of the diplomatic and consular establishment and it, too, is adequately housed. Perhaps the other services that are found here such as the agricultural attaché, the treasury attaché, the public health officer, the National Advisory Committee for Aeronautics, the Battle Monuments Commission and the Graves Registration Service are not so closely tied up with the foreign service work; nevertheless, the advantage to the American citizen to find all his government representatives in the same building is very great. A comparison with the situation in London where a day's time would be required to visit the various American officials makes this advantage the more apparent. The financial gain to the government is equally obvious.

Finally, the great opportunity for closer coöperation between diplomatic, consular and commercial officers is manifest and it is hoped to make the Paris establishment exemplary in this respect. Obviously it adds to the prestige of the American government to have its officials adequately housed in a great foreign capital and in the case of the American government building in Paris we have a fine model for the policy of the United States government in the future.

CHAPTER XXIII

OBSERVATIONS AND SUGGESTIONS

Democratic Attitude towards Diplomacy—A curious anomaly exists in the attitude towards diplomacy generally found in democracies. It might be expected that inasmuch as the foreign office and its representatives abroad are the first line of defense against international trouble, public opinion would rally wholeheartedly to the support of such an organization; yet such is not the case. In fact, diplomacy, with its taboos of secrecy, its social trappings, and caste organization, is still regarded with skepticism or suspicion by the man in the street. A very keen observer of international affairs has cogently expressed the attitude: "Not merely our own, but practically all other modern democracies have exhibited suspicion of diplomacy and diplomatists—terms which to them have seemed to smack unpleasantly of spendthrift aristocracy and of imperial intrigues. The defects of a tradition have obscured the permanent necessity of the function."¹

The average citizen can appreciate the value of a large army and navy as necessary insurance against war. He cannot visualize the still greater worth of an agency which attempts to conduct the relations of a state with its sister states in such a way as to make the requirement of a costly army and navy as unnecessary as possible. The laboratory-like action of a solvent against war does not possess the picturesque propaganda possibilities of the giant bombing plane or the sinister deadly power of the dreadnaught. The taxpayers' representatives will sanction millions for defense in military and naval appropriations, but balk at thousands for the prevention of war through diplomatic action. Comparing the amounts expended for diplomacy versus arms by the United States today, the ratio is about 50 to 1 in favor of arms.

Is there any valid reason for such an attitude? It must be confessed that there is. Democratic governments have not hesitated

¹ Paul Scott Mowrer, *Our Foreign Affairs* (New York, 1924), 193.

to employ dubious diplomatic methods when these suited their ends. The webs of deceit and the crude machinations of pre-War diplomacy were not less utilized by Junker Germany and Czarist Russia than by Republican France. Democratic Great Britain found itself pledged by secret commitments just as deeply as Imperial Austria. When the trained diplomats failed utterly in their mission to maintain peace, and the world's salvation was once more dependent upon the largest battalions, diplomatic prestige deservedly declined in value. The diplomat was regarded as either a "hierophant or a humbug", and diplomatic practice as Machiavelian intrigue. Its successes were dubious; its failures colossal.

It is unfortunately true even today that diplomacy is rigidly ruled by the dead hand of the past. The legal equality of states is no longer questioned in international relations, yet the unnecessary distinction between ambassadors and ministers established in international law over a century ago is still rigidly maintained. Why the United States should send an ambassador to Peru and a minister to Uruguay is as difficult to explain to the ordinary citizen as why the United States waited until 1935 to send an ambassador to China. Is it reasonable for an experienced consul general to rank lower socially than a neophyte diplomatic secretary when in the foreign service he might rank in Class I to that of his colleague's Class VIII? Is it surprising that the average citizen regards diplomacy as "either a mystery beyond him or a mummery beneath him"?

Secret Diplomacy—Another less valid basis for criticism leveled at diplomacy is its secrecy. It is a natural human attribute to be suspicious of the unknown. When, therefore, the democratic citizen gets the impression that the foreign office regards itself as a sacrosanct institution whose every movement must be shrouded in the most profound obscurity, he is resentful and suspicious. Yet every intelligent citizen appreciates the fact that delicate diplomatic negotiations cannot be carried on in the pitiless glare of present day press and radio publicity. No responsible foreign office or diplomatic representative could possibly achieve a reasonable compromise on a vital question without secrecy of deliberation. President Wilson's famous leader in his Fourteen Points, "Open covenants of peace, openly arrived at, after which

... diplomacy shall proceed always frankly and in the public view", was widely misunderstood. According to Ray Stannard Baker, his biographer, this did not mean that "the birth pains of the peace" should be exposed to the world, and President Wilson, himself, later explained that he did not intend that delicate questions should not be privately discussed, but rather that no secret agreements should be entered into, and that international policies when established should be open and above-board.²

If foreign offices would follow such an interpretation and make public the policies determined upon and keep the press informed as far as possible on points settled after negotiations, the average citizen would be satisfied. A British member of Parliament who has been an ardent advocate of more open diplomacy has picturesquely expressed the idea: "The spiders of intrigue which have woven undisturbed their tangled webs in secret must be chased into the open light of day. The stuffy hot-house atmosphere of diplomacy must be cleansed by the fresh air of publicity."³ It must be agreed that the United States' Department of State is extremely liberal in this regard.

Diplomatic Snobbishness—There is also abroad in the land the idea that ordinary diplomats are both snobs and stuffed shirts. In fact, in a recent somewhat ribald volume on Washington politics the chapter devoted to the activities of the diplomatic corps was entitled "Starched Futility". Was not Rabelais speaking of diplomats when he described a number of officials in a long room measuring how far fleas could jump, cutting the fire with knives, and emptying water with nets?

It may be that in a democracy where simplicity is supposed to be a cardinal virtue a certain resentment exists against the social side of diplomatic life. In fact, the foolish regulations regarding diplomatic costumes imposed upon American diplomats, and the century long refusal of the United States to appoint envoys with the rank of ambassador, is a clear evidence of this sentiment. Nevertheless, it is most unfortunate that the average citizen does not appreciate the arduous work done by his diplomatic representa-

² Ray Stannard Baker, *Woodrow Wilson and the World Settlement* (New York, 1922), I, 137-138.

³ Arthur Ponsonby, *Democracy and Diplomacy* (London, 1915), 114.

tives in protecting his national interests, political, commercial and social. And it is perhaps even more unfortunate that he fails to realize that some of the diplomats' best work is achieved through personal contacts made in the social gatherings which he so acutely resents.

Every effort should be made to counteract this caustic and for the most part undeserved criticism. Social snobbery should be regarded as a high diplomatic crime and anyone guilty of it deemed unworthy of the service. It is not enough for a profession with a past to be virtuous—it must appear to be virtuous. Inasmuch as the tendency exists to look for snobbery in the diplomatic ranks, the officers in the service should avoid the least appearance of it. The instructions as regards diplomatic uniforms, for example, show a complete failure to appreciate democratic psychology. The American citizen has no objection to the most dazzling regalia upon the proper occasion. In fact, he indulges this flair for ceremonial costume in many of his fraternal organizations. But the same individual who would be delighted to see his representative the most elaborately attired guest at a diplomatic soiree would turn up his nose with disgust at the sight of the same diplomatic secretary decked out with morning coat, spats, and a cane, on his way to the chancery. A former American consul general has aptly said, "The conduct of foreign relations, like domestic politics, is an intensely human business."⁴

The press may justly be accused of propagating to a considerable extent this exaggerated caricature of the high hat or tea-hound diplomat. Incidents are often related with a distorted emphasis which make fine copy for the paper, but poor publicity for the service. The story, as reported in the press, of the counselor of embassy in Paris who was accused by ex-Mayor Walker of failing to show him the proper courtesy was hardly a fair presentation of all the facts in the case. The so-called debunking story purporting to interpret the sub-surface political and diplomatic Washington often spreads the colors a bit too thick.

Unwise Appointments—The type of political appointment which is too often made in the United States, both in the State

⁴ DeWitt C. Poole, *The Conduct of Foreign Relations under Modern Democratic Conditions* (New Haven, 1924), 14.

Department and in the diplomatic service, lends itself very readily to unfavorable publicity. The recent appointment of an unknown lawyer whose practice and training were limited to the Great Lakes region of the United States, as Assistant Secretary of State in charge of legal matters, was not of special importance. But when this picturesque Pickwickian individual tried to startle Washington society by the extreme modishness of his attire and the appointments of his "super de luxe" automobile, as well as by the unique originality of his methods, the press could not be blamed for seizing the opportunity afforded.

A more specific criticism as to appointments which has been leveled at the Department of State by the foreign service officers is the abuse of the provision permitting officers to be brought back from the field to serve for a limited time in the Department. This is a very useful provision, but at times it has been utilized in a way never foreseen by the authors of the law. A foreign service officer is ordered to the Department for duty, permitted to resign, his salary raised, and after a term of duty he is then reappointed to the service. In this way he makes more rapid progress towards the top than his colleagues who remain in the field.

It has also been asserted by those familiar with the situation that the practice of permitting a chosen few foreign service officers to resign and become permanent officers at the heads of policy determining divisions is primarily for the benefit of the individual and not for the good of the service. This is particularly true as regards the geographical divisions.

Excellent arguments may be found in favor of the appointment of outstanding men with no diplomatic training to a certain number of diplomatic posts abroad. Nevertheless, one of the principal champions of non-career diplomats was guilty of a number of inexcusable violations of ordinary good taste while ambassador at the highest post in the American diplomatic service. The employment of a professional comedian as a waiter to insult the guests at a formal dinner may have been an amusing practical joke at the time, but the incident has not enhanced the prestige of American diplomacy.

M. de Callières in his famous classic on diplomacy tells the story of the Grand Duke of Tuscany who complained to the Venetian Ambassador to Rome that the Republic of Venice had sent as

resident to his court a person of no value, with neither judgment, knowledge, or attractive personal qualities "I am not surprised," said the Ambassador, "we have many fools in Venice." "We also have fools in Florence," retorted the Grand Duke, "but we take care not to export them." ⁵

Inadequate Allowances—A long standing weakness in the organization of the diplomatic service of the United States is the failure to provide sufficient government funds for the diplomatic representative to perform properly the necessary functions of the office. Former Secretary of State Hughes declared in 1922 "The Diplomatic Service is greatly underpaid. A man of moderate means, whatever his ability, cannot accept the more important posts of Ambassador or Minister. These high offices are reserved to men of wealth, when in the interest of the country they should be within the reach of men of ability, whatever their private fortune. Certainly they should be within the reach of men of talent who have ignored the opportunities to amass wealth by reason of their long employment in the service of their country." ⁶

The diplomatic envoy is constantly called upon to make addresses at important gatherings which are not held in the capital. He must travel first class, put up in a suite at the best hotel, and foot the bill out of his own pocket book. Americans abroad love to be entertained, and they expect their diplomatic representative to do this in no niggardly fashion. It has been estimated that an ambassador in one of the important European posts averages at least 100 guests a week for dinner and an even larger number at afternoon tea. If an American golf or swimming team goes abroad to represent the United States, it must be entertained properly by the American representative. A college glee club cannot be completely overlooked. Even the people's representatives in Congress who, while in Washington, insist on little or no representation allowance, when they go abroad must be most elaborately entertained by their country's foreign representatives.

The envoy must belong to several important clubs, maintaining

⁵ François de Callières, *De la manière de négocier avec les souverains* (Paris, 1716), 1716.

⁶ Charles Evans Hughes, "Some Aspects of the Work of the Department of State," *American Journal of International Law*, XVI, 362 (July, 1922).

in them an irreproachable standing. It is in this way that many of the most valuable contacts are made. He must give a fixed minimum of official dinners to governmental officials and to his diplomatic confrères, and such affairs must be up to a certain standard, or the prestige of his country is impaired. Business concerns recognize this situation and provide for it, but the wealthiest country in the world apparently regards these matters with complete indifference. Most appropriate to the case is the French aphorism, "c'est par les diners qu'on gouverne les hommes."

Mr. John W. Davis, former Ambassador to Great Britain, when asked to testify before the House Committee on Foreign Affairs in 1922, declared that "it is notorious that we never have paid to our ministers and especially to our ambassadors in the larger capitals a salary on which it was possible for them to live, let alone carry on the ceremonial activities that are indispensable in their conditions." ⁷

Undersecretary of State Frank L. Polk, testifying at the same time, gave it as his opinion that an ambassador, minister or secretary, representing the United States in whatever capacity, would probably have to expend twice as much as his salary out of his own pocket in order to get along and do the decent, reasonable thing for his country. ⁸

There is absolutely no excuse for this situation. Other nations make suitable provision for their foreign representatives, although financially much less able to do so than is the United States. Even the rich men who spend their own funds generously object to the system. Charlemagne Tower, former ambassador to Germany, who spent a fortune in the service, declared that it was no more in keeping with national dignity for private funds to be used in connection with the diplomatic service than it would be to pay the expenses of the post office department by popular subscription.

Not only does this parsimonious policy on the part of the United States keep able men eminently well equipped, but unable to meet the financial requirements, from being appointed, but it has forced some very successful envoys to resign from their posts. ⁹

⁷ *Hearings before Committee on Foreign Affairs, H. R. 68th Congress, 1st Session, 206*

⁸ *Ibid.*, 212

⁹ See *supra*, p. 324.

Others have held the position at extreme personal sacrifice and their families have been the sufferers. The story is told that General Noyes, Minister to France from 1877 to 1881, sacrificed his entire fortune of \$150,000 in order to maintain the essential expenditures of the post. As a result his widow was later compelled to sell the products of a little truck garden to gain a bare subsistence.

This financial burden has also made it difficult in some cases for career men to accept well merited promotion from the foreign service to the post of minister or ambassador. The United States finally has provided more adequate salaries and allowances for its foreign service officers who do not have the same responsibility for official entertainment as the chiefs of the mission. But once raised to the rank of minister or ambassador, the cost of representation is a perpetual drain. In the words of the Japanese school boy, "Poverty are no disgrace for Methodist Minister, but for Foreign Minister it are a crime."

Need for Government-owned Quarters—Closely connected with the lack of adequate representation allowances is the need for government-owned buildings to house our diplomatic and consular services abroad. Although considerable progress has been made in the post-War period towards the purchase of embassies, legations and consulates, a great lack still exists. The importance of an adequate diplomatic establishment tastefully housed in an appropriate section of every foreign capital cannot be overestimated. It has been claimed by an American diplomatic official that in the Behring Sea controversy between the United States and Great Britain at St. Petersburg, the social prestige of the palatial British embassy almost of itself carried the day as against the insignificant position of our unhoused and poorly paid minister.¹⁰

Fortunately the United States has at last begun to remedy this situation and owns and has furnished suitable residences for its ambassadors and ministers in some eighteen foreign capitals, or about one-third of the total number. The situation as regards consular establishments is much worse, and the United States at present owns less than a dozen adequate consular establishments out of more than a hundred required.

¹⁰ Chalmers Roberts, "Incidents in American Diplomacy," *World's Work*, January, 1902.

Treatment of Personnel—Before leaving the subject of defects in regard to foreign service personnel a word should be said concerning the foreign service officers and clerks. The former are not so badly off today—in fact, their salary scale is quite adequate. But they, too, should have reasonable representation allowances. A consular representative in charge of an important post is not measurably different from a diplomatic representative as to the calls upon his purse for entertainment purposes. Although fewer official requirements arise, he must make his contacts for trade opportunities through social relationships. Oftentimes his duties require considerable travel and if he cannot afford the cost, his value to his country is diminished. Nicholas Roosevelt, former Minister to Hungary, tells of a consul in Newfoundland who spent \$400 of his own money for traveling expenses in order to close a business transaction for American business men, and of another case where the consul general could not respond to an appeal for help from an American in an out of the way place because he could not personally afford the cost of making the trip.¹¹

The clerical personnel in the diplomatic and consular posts abroad, however, is the group most deserving of better treatment at the hands of the United States government. All clerks in the embassies and legations, as well as a large number of those in the consulates, are American citizens. At the present time clerks commissioned as non-career vice consuls constitute approximately one-third of the personnel of the consular branch of the foreign service. The clerks, on the whole, are an exceedingly intelligent class, and very often do exactly the same type of work as that done by the foreign service officers. In fact, many of the difficult technical details in foreign posts are left wholly in the hands of well trained, experienced clerks. In addition, clerks are usually expert stenographers and thoroughly familiar with the language of the country in which they serve. Their salaries begin at \$1,560 and if the clerk be a foreigner, his maximum salary is \$2,750; American clerks, by becoming Class I Senior Clerks, ultimately may reach \$4,000, but there are few who reach this grade. Foreign clerks receive no light, rent or heat allowances, nor are they eligible for retirement pensions.

¹¹ Nicholas Roosevelt, "Diplomacy in Rags," *Christian Science Monitor*, February 19, 1934

Several suggestions are offered for the improvement of the status of the clerical force. The salary of foreign clerks ineligible for allowances or retirement pay should be raised to the same level as that of American clerks. American citizens applying for clerical positions in diplomatic or consular posts abroad should be appointed on a strictly civil service basis. The American clerks serving abroad should be put upon the same status as regards retirement as that enjoyed by foreign service officers. For example, at the present time a non-career vice consul who retires on a \$4,000 basis (the highest possible) would be pensioned at \$1,200. A foreign service officer retired on the same salary would receive a pension of \$2,400. The non-career vice consul should be enabled to enter the career service upon less rigid terms than are now imposed. A successful handling of the various duties of a post over a fairly long period of time, plus the recommendation of the chief of the post and the inspector, should be sufficient, after a very nominal examination, to permit the American clerk to enter the career service. Finally, home leave for American clerks should be made compulsory every five years, and arrangements made with American subsidized ships to carry these officers and their families at cost. In fact, a regular transfer system of clerks in the Department and in the field might be advantageous to both.

Unification of Diplomatic and Consular Posts—Some of the ablest career officers in the American diplomatic and consular service feel that the next important step towards improving the foreign service is to bring about a greater unification and coordination of governmental service in foreign capitals. The first requirement, of course, is to house the various government agencies in a single building. But to effect this change before working out a plan of integration would mean merely transferring the various establishments to one building without coordinating their activities.

At the present time there is a definite effort being made to break down the artificial barriers which separate the diplomatic and consular officers. All new foreign service officers receive a dual commission and the older men are rapidly being put on the same basis. Transfers between diplomatic and consular posts are more prevalent than ever before, and in a considerable number of smaller capitals both diplomatic and consular services recently

have been reorganized to function as a single unit.¹² The number of attachés, military, naval and commercial, is being restricted and the former duplication of work eliminated.

Such coördination of administrative machinery for transacting government work in a foreign capital is conducive both to efficiency and to economy. Such unification permits a single accounting system, one telephone and telegraph service, a single cable and code section, better stenographic service at less expense, more complete library facilities, a centralized mail and filing section, a single messenger service and a concentrated custodian and janitor service. The advantages of such coördination are so great and the need for them so evident that it is to be hoped that the necessary buildings will soon be provided and this policy fully established.

Duplicated and Unnecessary Functions—A few other suggestions as to more efficient methods for the performance of diplomatic and consular functions have been offered to the writer from time to time. In some cases friction still exists between the consular officer and the commercial attaché. It is claimed that the duplication of effort is uneconomical and causes a natural confusion to arise in the minds of local officials as to which is the proper officer to approach. Yet in some posts it is felt that so long as diplomatic and consular officers are separate a real need is filled by a commercial representative on the diplomatic staff. However, even this requirement is met if the consul general possesses a diplomatic as well as a consular commission. An improvement in the relations between consular officers and commercial attachés has been noted since trade inquiries have been assigned to the consular officers, while general economic reporting has been shifted to commercial attachés. However, when a consul does make a good commercial report, it should appear under the consul's name.

It has also been suggested that certain somewhat obsolete and unnecessary consular functions be abolished. Since the Customs

¹² According to the 1935 edition of the *Register of the Department of State* the following posts have officers with dual commissions under the minister: Albania, Bolivia, Bulgaria, Colombia, El Salvador, Estonia, Finland, Haiti, Honduras, Iran, Lithuania, Luxemburg, Morocco, Nicaragua, Panama, Paraguay and Siam. A similar coördination has been effected at Moscow under the ambassador.

Bureau of the Treasury Department conducts its own investigations abroad as to commodity values, there seems to be no valid reason for consular merchandise invoices. Legal responsibility for incorrect declarations could be obtained through sworn statements of the importers, as is done by other countries. The only real value of the practice is the fee attached to it. In fact, the Treasury Department a few years ago attempted to discontinue consular invoices in Canada, and the practice was reinstated only at the request of the Department of State.

Another somewhat unnecessary function is the issuance of American consular bills of health. International quarantine regulations have been so well enforced that most important countries do not require bills of health except from ports known to be infected. The amount collected is small, and, if thought desirable, the income could just as readily be obtained by a clearance tax in accordance with the French system.

One serious strain which falls upon every foreign service officer sooner or later would be remedied if the government were to supply the head of every diplomatic and consular post with a sum of money to be used in exceptional cases for the repatriation of deserving Americans. Although many cases come to the attention of foreign service officers which can be dismissed summarily, occasionally a situation arises in which the officer is compelled to use his own funds. At present in a few large capitals American residents can be called upon to aid, but a confidential emergency fund supplied by the government, to be used only as a last resort and in the form of a loan, would be an invaluable boon, and its abuse could be reduced to a minimum. Many countries make such provision, and the United States at one time had such a fund. Its reestablishment is heartily recommended.

* * *

There was a time not so many years ago when the American foreign service was deservedly unpopular. No excuse for such an attitude exists today. A prominent former member of the British diplomatic service goes so far as to say that "Those . . . who were travelling on the continent in August, 1914, and were caught in the cataclysm, were in a position to compare the way in which

British and American missions or consulates dealt with the emergency. I think they will agree that so far as private individuals went, the Americans were much more hopeful and human.”¹⁸

The American diplomatic and consular service has improved considerably since that time, and both in organization and personnel now stands second to none. If the government will give it the necessary support and if the American people will come to realize its value and accomplishments, the most effective agency existing today for the maintenance of friendly relations between states will be raised to the eminent position that it long has merited.

¹⁸ George Young, *Diplomacy Old and New* (New York, 1921), 17.

APPENDIX A

PRESIDENTS OF THE UNITED STATES AND SECRETARIES OF STATE, 1789-1936

President

George Washington,
of Virginia
April 30, 1789-March 4,
1797

John Adams,
of Massachusetts
March 4, 1797-March 4,
1801

Secretary of State

John Jay of New York. Took office as Secretary for Foreign Affairs under the Continental Congress, December 21, 1784; held over without further appointment or commission and continued, though not officially, to superintend the Department under the Constitution until Jefferson took office as Secretary of State on March 22, 1790.

Thomas Jefferson, of Virginia. Commissioned September 26, 1789; entered upon duties March 22, 1790; retired December 31, 1793.

Edmund Randolph, of Virginia. Commissioned and entered upon duties January 2, 1794; retired August 20, 1795.

Timothy Pickering, of Pennsylvania (Secretary of War). *Ad interim* August 20-December 9, 1795; commissioned Secretary of State and entered upon duties December 10, 1795.

Timothy Pickering continued from preceding administration; retired May 12, 1800.

Charles Lee, of Virginia (Attorney General). *Ad interim* May 13-June 5, 1800.

John Marshall, of Virginia. Commis-

. *President**Secretary of State*

sioned May 13, 1800, entered upon duties June 6, 1800, retired February 4, 1801, (Chief Justice of the United States) *ad interim* February 4-March 3, 1801.

Thomas Jefferson,
of Virginia
March 4, 1801-March 4,
1809

John Marshall, of Virginia (Chief Justice) *Ad interim* March 4, 1801.

Levi Lincoln, of Massachusetts (Attorney General). *Ad interim* March 5-May 1, 1801.

James Madison, of Virginia. Commissioned March 5, 1801, entered upon duties May 2, 1801; retired March 3, 1809.

James Madison,
of Virginia
March 4, 1809-March 4,
1817

(No Secretary of State or Acting Secretary of State, March 4-5, 1809)

Robert Smith, of Maryland. Commissioned and entered upon duties March 6, 1809; retired April 1, 1811.

James Monroe, of Virginia. Commissioned (recess of the Senate) April 2, 1811; entered upon duties April 6, 1811; recommissioned November 26, 1811; retired September 30, 1814; (Secretary of War) *ad interim* October 1, 1814-February 28, 1815; Commissioned February 28, 1815; entered upon duties March 1, 1815; retired March 3, 1817.

James Monroe,
of Virginia
March 4, 1817-March 4,
1825

John Graham, of Virginia (Chief Clerk) *Ad interim* March 4-9, 1817

Richard Rush, of Pennsylvania (Attorney General) *Ad interim* March 10-September 22, 1817.

John Quincy Adams, of Massachusetts. Commissioned March 5, 1817; entered upon duties September 22, 1817; retired March 3, 1825.

*President**Secretary of State*

John Quincy Adams,
of Massachusetts
March 4, 1825–March 4,
1829

Andrew Jackson,
of Tennessee
March 4, 1829–March 4,
1837

Martin Van Buren,
of New York
March 4, 1837–March 4,
1841

William Henry Harrison,
of Ohio
March 4–April 4, 1841

John Tyler,
of Virginia
April 6, 1841–March 4,
1845

Daniel Brént, of Virginia (Chief Clerk) *Ad interim* March 4–7, 1825
Henry Clay, of Kentucky. Commissioned and entered upon duties March 7, 1825; retired March 3, 1829.

James A. Hamilton, of New York. *Ad interim* March 4–27, 1829.

Martin Van Buren, of New York. Commissioned March 6, 1829; entered upon duties March 28, 1829; retired May 23, 1831.

Edward Livingston, of Louisiana. Commissioned and entered upon duties May 24, 1831, recommissioned January 12, 1832; retired May 29, 1833.

Louis McLane, of Delaware. Commissioned (recess of the Senate) and entered upon duties May 29, 1833; retired June 30, 1834.

John Forsyth, of Georgia. Commissioned June 27, 1834; entered upon duties July 1, 1834.

John Forsyth continued from preceding administration, retired March 3, 1841.

Jacob L. Martin, of North Carolina (Chief Clerk). *Ad interim* March 4–5, 1841.

Daniel Webster, of Massachusetts. Commissioned March 5, 1841; entered upon duties March 6, 1841.

Daniel Webster continued from preceding administration; retired May 8, 1843.

Hugh S. Legaré, of South Carolina

*President**Secretary of State*

- (Attorney General). *Ad interim* May 9–June 20, 1843 (died).
 William S. Derrick, of Pennsylvania (Chief Clerk). *Ad interim* June 21–23, 1843.
 Abel P. Upshur of Virginia (Secretary of the Navy). *Ad interim* June 24–July 23, 1843; Commissioned (recess of the Senate) and entered upon duties July 24, 1843; Re commissioned January 2, 1844; died February 28, 1844.
 John Nelson, of Maryland (Attorney General). *Ad interim* February 29–March 31, 1844.
 John C. Calhoun, of South Carolina. Commissioned March 6, 1844; entered upon duties April 1, 1844.
- James K. Polk,
 of Tennessee
 March 4, 1845–March 4,
 1849
- John C. Calhoun continued from preceding administration; retired March 10, 1845.
 James Buchanan, of Pennsylvania. Commissioned March 6, 1845; entered upon duties March 10, 1845.
- Zachary Taylor,
 of Louisiana
 March 5, 1849–July 9, 1850
- James Buchanan continued from preceding administration; retired March 7, 1849.
 John M. Clayton, of Delaware. Commissioned March 7, 1849; entered upon duties March 8, 1849.
- Millard Fillmore,
 of New York
 July 10, 1850–March 4,
 1853
- John M. Clayton continued from preceding administration; retired July 22, 1850.
 Daniel Webster, of Massachusetts. Commissioned July 22, 1850; entered upon duties July 23, 1850; died October 24, 1852.
 Charles M. Conrad, of Louisiana. (Sec-

*President**Secretary of State*

retary of War). *Ad interim* October 25–November 5, 1852.

Edward Everett, of Massachusetts. Commissioned (recess of Senate) and entered upon duties November 6, 1852; recommissioned December 9, 1852; retired March 3, 1853.

Franklin Pierce,
of New Hampshire
March 4, 1853–March 4,
1857

William Hunter, Jr., of Rhode Island (Chief Clerk.) *Ad interim* March 4–7, 1853.

William L. Marcy, of New York. Commissioned March 7, 1853; entered upon duties March 8, 1853.

James Buchanan,
of Pennsylvania
March 4, 1857–March 4,
1861

William L. Marcy continued from preceding administration; retired March 6, 1857.

Lewis Cass, of Michigan. Commissioned and entered upon duties March 6, 1857; retired December 14, 1860.

William Hunter, Jr., of Rhode Island (Chief Clerk.) *Ad interim* December 15–16, 1860.

Jeremiah S. Black, of Pennsylvania. Commissioned and entered upon duties December 17, 1860.

Abraham Lincoln,
of Illinois
March 4, 1861–April 15,
1865

Jeremiah S. Black continued from preceding administration; retired March 5, 1861.

William H. Seward, of New York. Commissioned March 5, 1861; entered upon duties March 6, 1861.

Andrew Johnson,
of Tennessee
April 15, 1865–March 4,
1869

William H. Seward continued from preceding administration; retired March 4, 1869.

*, President**Secretary of State*

Ulysses S. Grant,
of Illinois
March 4, 1869–March 4,
1877

Elihu B. Washburne, of Illinois. Com-
missioned and entered upon duties
March 5, 1869; retired March 16,
1869.

Hamilton Fish, of New York. Commis-
sioned March 11, 1869; entered upon
duties March 17, 1869; recommis-
sioned March 17, 1873.

Rutherford B. Hayes,
of Ohio
March 5, 1877–March 4,
1881

Hamilton Fish continued from preced-
ing administration; retired March
12, 1877.

William M. Evarts, of New York,
Commissioned and entered upon du-
ties March 12, 1877.

James A. Garfield,
of Ohio
March 4–September 19,
1881

William M. Evarts continued from pre-
ceding administration; retired March
7, 1881.

James G. Blaine, of Maine. Commis-
sioned March 5, 1881, entered upon
duties March 7, 1881.

Chester A. Arthur,
of New York
September 20, 1881–March
4, 1885

James G. Blaine continued from pre-
ceding administration; retired De-
cember 19, 1881.

Frederick T. Frelinghuysen, of New
Jersey. Commissioned December 12,
1881; entered upon duties Decem-
ber 19, 1881.

Grover Cleveland,
of New York
March 4, 1885–March 4,
1889

Frederick T. Frelinghuysen continued
from preceding administration; re-
tired March 6, 1885.

Thomas F. Bayard, of Delaware. Com-
missioned March 6, 1885; entered
upon duties March 7, 1885.

Benjamin Harrison,
of Indiana
March 4, 1889–March 4,
1893

Thomas F. Bayard continued from pre-
ceding administration; retired March
6, 1889.

James G. Blaine, of Maine. Commis-

*President**Secretary of State*

Grover Cleveland,
of New York
March 4, 1893–March 4,
1897

William McKinley,
of Ohio
March 4, 1897–September
14, 1901

sioned March 5, 1889; entered upon duties March 7, 1889; retired June 4, 1892.

William F. Wharton, of Massachusetts (Assistant Secretary). *Ad interim* June 4–29, 1892.

John W. Foster, of Indiana Commissioned and entered upon duties June 29, 1892; retired February 23, 1893.

William F. Wharton, of Massachusetts (Assistant Secretary). *Ad interim* February 24, 1893, to close of administration.

William F. Wharton continued, *ad interim*, from preceding administration to March 6, 1893.

Walter Q. Gresham, of Illinois Commissioned March 6, 1893; entered upon duties March 7, 1893; died May 28, 1895.

Edward F. Uhl, of Michigan (Assistant Secretary). *Ad interim* May 28–June 9, 1895.

Richard Olney, of Massachusetts. Commissioned (recess of the Senate) June 8, 1895; entered upon duties June 10, 1895; recommissioned December 3, 1895.

Richard Olney continued from preceding administration; retired March 5, 1897.

John Sherman, of Ohio. Commissioned March 5, 1897; entered upon duties March 6, 1897; retired April 27, 1898.

William R. Day, of Ohio. Commissioned April 26, 1898; entered upon duties April 28, 1898; retired September 16, 1898.

<i>President</i>	<i>Secretary of State</i>
	Alvey A. Adee, of the District of Columbia (Second Assistant Secretary). <i>Ad interim</i> September 17-29, 1898.
	John Hay, of the District of Columbia. Commissioned (recess of the Senate) September 20, 1898; entered upon duties September 30, 1898; recommissioned December 7, 1898, and March 5, 1901.
Theodore Roosevelt, of New York September 14, 1901-March 4, 1909	John Hay continued from preceding administration; recommissioned March 6, 1905; died July 1, 1905. Francis B. Loomis, of Ohio (Assistant Secretary). <i>Ad interim</i> July 1-18, 1905.
	Elihu Root, of New York. Commissioned (recess of the Senate) July 7, 1905; entered upon duties July 19, 1905; recommissioned December 6, 1905, retired January 27, 1909.
	Robert Bacon, of New York. Commissioned and entered upon duties January 27, 1909
William Howard Taft, of Ohio March 4, 1909-March 4, 1913	Robert Bacon continued from preceding administration; retired March 5, 1909. Philander C. Knox, of Pennsylvania. Commissioned March 5, 1909; entered upon duties March 6, 1909.
Woodrow Wilson, of New Jersey March 4, 1913-March 4, 1921	Philander C. Knox continued from preceding administration, retired March 5, 1913. William Jennings Bryan, of Nebraska. Commissioned and entered upon duties March 5, 1913; retired June 9, 1915.
	Robert Lansing, of New York (Counselor). <i>Ad interim</i> June 9-23, 1915;

*President**Secretary of State*

commissioned (recess of the Senate)
June 23, 1915; entered upon duties
June 24, 1915; recommissioned De-
cember 13, 1915; retired February
13, 1920

Frank Lyon Polk, of New York (Un-
der Secretary). *Ad interim* February
14-March 14, 1920.

(No Secretary of State or Acting Sec-
retary of State March 15-21, 1920).

Bainbridge Colby, of New York. Com-
missioned March 22, 1920; entered
upon duties March 23, 1920; retired
March 4, 1921.

Warren Gamaliel Harding,
of Ohio
March 4, 1921-August 2,
1923

Charles Evans Hughes, of New York.
Commissioned March 4, 1921; en-
tered upon duties March 5, 1921.

Calvin Coolidge,
of Massachusetts
August 3, 1923-March 4,
1929

Charles Evans Hughes continued from
preceding administration; retired
March 4, 1925.

Frank Billings Kellogg, of Minnesota;
commissioned February 16, 1925;
entered upon duties March 5, 1925.

Herbert Clark Hoover,
of California
March 4, 1929-March 4,
1933

Frank Billings Kellogg continued from
preceding administration; retired
March 28, 1929.

Henry Lewis Stimson, of New York.
Commissioned March 5, 1929; en-
tered upon duties March 28, 1929;
retired March 4, 1933.

Franklin Delano Roosevelt,
of New York
March 4, 1933-

Cordell Hull, of Tennessee. Commis-
sioned March 4, 1933, entered upon
duties March 4, 1933.

APPENDIX B

AMERICAN DIPLOMATIC REPRESENTATIVES TO COUNTRIES TO WHICH AMBASSADORS ARE AT PRESENT ACCREDITED

ARGENTINA

Minister Plenipotentiary

Caesar A. Rodney, of Delaware, January 27, 1823.

Chargés d'Affaires

John M. Forbes, of Florida, March 9, 1825.

Francis Baylies, of Massachusetts, January 3, 1832.

William Brent, jr., of Virginia, June 14, 1844.

William A. Harris, of Virginia, February 19, 1846.

John S. Pendleton, of Virginia, February 27, 1851.

James A. Peden, of Florida, May 22, 1854.

Ministers Resident

James A. Peden, of Florida, June 29, 1854.

Benjamin C. Yancey, of Georgia, June 14, 1858.

John F. Cushman, of Mississippi, July 18, 1859.

Robert M. Palmer, of Pennsylvania, March 28, 1861.

Robert C. Kirk, of Ohio, March 4, 1862.

Alexander Asboth¹ of Missouri, March 12, 1866.

H. G. Worthington,¹ of Nevada, June 5, 1868.

Robert C. Kirk, of Ohio, April 16, 1869.

Julius White, of Illinois, December 12, 1872.

Thomas O. Osborn, of Illinois, February 10, 1874.

Ministers Resident and Consuls General

Thomas O. Osborn, of Illinois, July 7, 1884.

Bayless W. Hanna, of Indiana, June 17, 1885.

Envoys Extraordinary and Ministers Plenipotentiary

Bayless W. Hanna, of Indiana, July 1, 1887.

John R. G. Pitkin, of Louisiana, July 26, 1889.

William I. Buchanan, of Iowa, January 26, 1894.

William P. Lord, of Oregon, October 16, 1899.

¹ Accredited also to Uruguay.

John Barrett, of Oregon, July 2, 1903.
Arthur M. Beaupré, of Illinois, March 17, 1904.
Spencer F. Eddy, of Illinois, April 2, 1908.
Charles H. Sherrill, of New York, April 1, 1909.
John W. Garrett, of Maryland, December 14, 1911.

Ambassadors Extraordinary and Plenipotentiary

Frederic Jesup Stimson, of Massachusetts, October 1, 1914.
John W. Riddle, of Connecticut, November 18, 1921.
Peter Augustus Jay, of Rhode Island, March 18, 1925.
Robert Woods Bliss, of New York, February 17, 1927.
Alexander W. Weddell, of Virginia, June 3, 1933.

BELGIUM

Chargés d'Affaires

Hugh S. Legaré, of South Carolina, April 14, 1832.
Virgil Maxcy, of Maryland, June 16, 1837.
Henry W. Hilliard, of Alabama, May 12, 1842.
Thomas G. Clemson, of Pennsylvania, June 17, 1844.
Richard H. Bayard, of Delaware, December 10, 1850.
J. J. Seibels, of Alabama, May 24, 1853.

Ministers Resident

J. J. Seibels, of Alabama, June 29, 1854.
Elisha Y. Fair, of Alabama, June 14, 1858.
Henry S. Sanford, of Connecticut, March 20, 1861.
Joseph Russell Jones, of Illinois, March 15, 1870.
Ayres Phillips Merrill, of Mississippi, January 7, 1876.
William C. Goodloe, of Kentucky, March 4, 1878.
James O. Putnam, of New York, June 4, 1880.
Nicholas Fish, of New York, April 28, 1882.
Lambert Tree, of Illinois, July 3, 1885.

Envoys Extraordinary and Ministers Plenipotentiary

Lambert Tree, of Illinois, August 10, 1888.
John G. Parkhurst, of Michigan, October 1, 1888.
Edwin H. Terrell, of Texas, April 1, 1889.
James S. Ewing, of Illinois, April 8, 1893.
Bellamy Storer, of Ohio, May 4, 1897.
Lawrence Townsend, of Pennsylvania, April 12, 1899.
Henry Lane Wilson, of Washington, March 8, 1905.
Charles Page Bryan, of Illinois, December 21, 1909.
Larz Anderson, of the District of Columbia, August 12, 1911.

Theodore Marburg, of Maryland, November 22, 1912.
 Brand Whitlock, of Ohio, December 22, 1913.

Ambassadors Extraordinary and Plenipotentiary

Brand Whitlock, of Ohio, September 30, 1919.
 Henry P. Fletcher,² of Pennsylvania, March 6, 1922.
 William Phillips,² of Massachusetts, February 29, 1924.
 Hugh S. Gibson,² of California, February 17, 1927.
 Dave Hennen Morris,² of New York, May 18, 1933.

BRAZIL

Chargés d'Affaires

Condy Raguet, of Pennsylvania, March 9, 1825.
 William Tudor, of Massachusetts, June 26, 1827.
 Ethan A. Brown, of Ohio, May 26, 1830.
 William Hunter, of Rhode Island, June 28, 1834.

Envoys Extraordinary and Ministers Plenipotentiary

William Hunter, of Rhode Island, September 13, 1841.
 George H. Proffit, of Indiana, June 7, 1843.
 Henry A. Wise, of Virginia, February 8, 1844.
 David Tod, of Ohio, March 3, 1837.
 Robert C. Schenck, of Ohio, March 12, 1851.
 William Trousdale, of Tennessee, May 24, 1853.
 Richard K. Meade, of Virginia, July 27, 1857.
 James Watson Webb, of New York, May 31, 1861.
 Henry T. Blow, of Missouri, May 1, 1869.
 James R. Partridge, of Maryland, May 23, 1871.
 Henry W. Hilliard, of Georgia, July 31, 1877.
 Thomas A. Osborn, of Kansas, May 19, 1881.
 Thomas J. Jarvis, of North Carolina, April 2, 1885.
 Robert Adams, jr., of Pennsylvania, March 30, 1889.
 Edwin H. Conger, of Iowa, September 27, 1890.
 Thomas L. Thompson, of California, April 24, 1893.
 Edwin H. Conger, of Iowa, May 27, 1897.
 Charles Page Bryan, Illinois, January 19, 1898.
 David E. Thompson, of Nebraska, September 26, 1902.

Ambassadors Extraordinary and Plenipotentiary

David E. Thompson, of Nebraska, January 13, 1905.
 Lloyd C. Griscom, of Pennsylvania, January 29, 1906.
 Irving B. Dudley, of California, December 19, 1906.

² Accredited also to Luxemburg.

Edwin V. Morgan, of New York, January 18, 1912.
Hugh S. Gibson, of California, May 11, 1933.

CHILE

Minister Plenipotentiary

Heman Allen, of Vermont, January 27, 1823.

Chargés d'Affaires

Samuel Larned, of Rhode Island, February 29, 1828.
John Hamm, of Ohio, May 26, 1830.
Richard Pollard, of Virginia, June 28, 1834.
John S. Pendleton, of Virginia, August 16, 1841.
William Crump, of Virginia, April 10, 1844.
Seth Barton, of Louisiana, May 27, 1847.

Envoys Extraordinary and Ministers Plenipotentiary

Balie Peyton, of Tennessee, August 9, 1849.
David A. Starkweather, of Ohio, June 29, 1854.
John Bigler, of California, April 2, 1857.
Thomas H. Nelson, of Indiana, June 1, 1861.
Judson Kilpatrick, of New Jersey, November 11, 1865.
Joseph P. Root, of Kansas, September 15, 1870.
Cornelius A. Logan, of Kansas, March 17, 1873.
Thomas A. Osborn, of Kansas, May 31, 1877.
Judson Kilpatrick, of New Jersey, May 19, 1881.

Special Envoy Extraordinary and Minister Plenipotentiary

William Henry Trescot, of South Carolina, November 28, 1881.

Envoys Extraordinary and Ministers Plenipotentiary

Cornelius A. Logan, of Illinois, March 15, 1882.
William R. Roberts, of New York, April 2, 1885.
Patrick Egan, of Nebraska, March 30, 1889.
James D. Porter, of Tennessee, April 4, 1893.
Edward H. Strobel, of New York, December 13, 1894.
Henry L. Wilson, of Washington, June 9, 1897.
John Hicks, of Wisconsin, July 14, 1905.
Thomas C. Dawson, of Iowa, April 21, 1909.
Henry P. Fletcher, of Pennsylvania, December 21, 1909.

Ambassadors Extraordinary and Plenipotentiary

Henry P. Fletcher, of Pennsylvania, October 1, 1914.
Joseph H. Shea, of Indiana, March 6, 1916.
William Miller Collier, of New York, June 29, 1921.

William S. Culbertson, of Kansas, June 19, 1928.
Hal H. Sevier, of Texas, August 19, 1933.
Hoffman Philip, of New York, July 22, 1935.

CHINA

Envoy Extraordinary and Minister Plenipotentiary
Caleb Cushing, of Massachusetts, May 8, 1843.

Commissioners

Caleb Cushing, of Massachusetts, May 8, 1843.
Alexander H. Everett, of Massachusetts, March 13, 1845.
John W. Davis, of Indiana, January 3, 1848.
Thomas A. R. Nelson, of Tennessee, March 6, 1851.
Humphrey Marshall, of Kentucky, August 4, 1852.
Robert M. McLane, of Maryland, October 18, 1853.
Peter Parker, of Massachusetts, August 16, 1855.

Envoys Extraordinary and Ministers Plenipotentiary
William B. Reed, of Pennsylvania, April 18, 1857
John E. Ward, of Georgia, December 15, 1858
Anson Burlingame, of Massachusetts, June 14, 1861.
J. Ross Browne, of California, March 11, 1868.
Frederick F. Low, of California, September 28, 1869.
Benjamin P. Avery, of California, April 10, 1874.
George F. Seward, of California, January 7, 1876.
James B. Angell, of Michigan, April 9, 1880
John Russell Young, of New York, March 15, 1882.
Charles Denby, of Indiana, May 29, 1885
Charles Page Bryan, of Illinois, November 10, 1897.
Edwin H. Conger, of Iowa, January 19, 1898.

Commissioner

William Woodville Rockhill, of the District of Columbia, July 19, 1900.

Envoys Extraordinary and Ministers Plenipotentiary
William Woodville Rockhill, of the District of Columbia, March 8, 1905
Charles R. Crane, of Illinois, July 23, 1909.
William James Calhoun, of Illinois, December 21, 1909.
Paul S. Reinsch, of Wisconsin, August 15, 1913.
Charles R. Crane, of Massachusetts, March 22, 1920.
Jacob Gould Schurman, of New York, June 2, 1921.

John Van A. MacMurray, of New Jersey, April 9, 1925.
Nelson T. Johnson, of Oklahoma, December 16, 1929.

Ambassador Extraordinary and Plenipotentiary

Nelson T. Johnson, of Oklahoma, June 18, 1935.

CUBA

Envoys Extraordinary and Ministers Plenipotentiary

Herbert Goldsmith Squiers, of New York, May 20, 1902.
Edwin V. Morgan, of New York, November 29, 1905.
John B. Jackson, of New Jersey, December 21, 1909.
Arthur M. Beaupré, of Illinois, August 12, 1911.
William E. Gonzales, of South Carolina, June 21, 1913.
Boaz W. Long, of New Mexico, June 30, 1919.

Ambassadors Extraordinary and Plenipotentiary

Maj. Gen. Enoch H. Crowder, of the United States Army, February 10, 1923.
Noble Brandon Judah, of Illinois, November 22, 1927.
Harry F. Guggenheim, of New York, October 10, 1929.
Sumner Welles, of Maryland, April 24, 1933.
Jefferson Caffery, of Louisiana, February 23, 1934.

FRANCE

Chargé d'Affaires

William Short, of Virginia, April 20, 1790.

Ministers Plenipotentiary

Gouverneur Morris, of New York, January 12, 1792.
James Monroe, of Virginia, May 28, 1794.
Charles Cotesworth Pinckney, of South Carolina, September 9, 1796.
Robert R. Livingston, of New York, October 2, 1801.
John Armstrong, of New York, June 30, 1804.

Chargé d'Affaires

Jonathan Russell, of Rhode Island, November 5, 1810.

Ministers Plenipotentiary

Joel Barlow, of Connecticut, February 27, 1811.
William H. Crawford, of Georgia, April 9, 1813.

Envoys Extraordinary and Ministers Plenipotentiary

Albert Gallatin, of Pennsylvania, February 28, 1815.

James Brown, of Louisiana, December 9, 1823.
William C. Rives, of Virginia, April 18, 1829.

Chargé d'Affaires

Leavitt Harris, of Pennsylvania, March 6, 1833.

Envoys Extraordinary and Ministers Plenipotentiary

Edward Livingston, of Louisiana, May 29, 1833.
Lewis Cass, of Ohio, October 4, 1836.
William R. King, of Alabama, April 9, 1844.
Richard Rush, of Pennsylvania, March 3, 1847.
William C. Rives, of Virginia, July 20, 1849.
John Y. Mason, of Virginia, October 10, 1853.
Charles J. Faulkner, of Virginia, January 16, 1860.
William L. Dayton, of New Jersey, March 18, 1861.

Chargé d'Affaires

John Bigelow, of New York, December 21, 1864.

Envoys Extraordinary and Ministers Plenipotentiary

John Bigelow, of New York, March 15, 1865.
John A. Dix, of New York, September 24, 1866.
Elihu B. Washburne, of Illinois, March 17, 1869.
Edward F. Noyes, of Ohio, July 1, 1877.
Levi P. Morton, of New York, March 21, 1881.
Robert M. McLane, of Maryland, March 23, 1885.
Whitelaw Reid, of New York, March 23, 1889.
T. Jefferson Coolidge, of Massachusetts, May 12, 1892.
James B. Eustis, of Louisiana, March 20, 1893.

Ambassadors Extraordinary and Plenipotentiary

James B. Eustis, of Louisiana, April 8, 1893.
Horace Porter, of New York, March 19, 1897.
Robert S. McCormick, of Illinois, March 8, 1905.
Henry White, of Rhode Island, December 19, 1906.
Robert Bacon, of New York, December 21, 1909.
Myron T. Herrick, of Ohio, February 15, 1912.
William G. Sharp, of Ohio, June 19, 1914.
Hugh Campbell Wallace, of Washington, February 27, 1919.
Myron T. Herrick, of Ohio, April 16, 1921.
Walter E. Edge, of New Jersey, November 21, 1929.
Jesse Isidor Straus, of New York, March 17, 1933.

GERMANY

Envoys Extraordinary and Ministers Plenipotentiary

- George Bancroft, of New York, May 31, 1871.
 J. C. Bancroft Davis, of New York, June 11, 1874.
 Bayard Taylor, of Pennsylvania, March 4, 1878.
 Andrew D. White, of New York, April 2, 1879.
 Aaron A. Sargent, of California, March 2, 1882.
 John A. Kasson, of Iowa, July 4, 1884.
 George H. Pendleton, of Ohio, March 23, 1885.
 William Walter Phelps, of New Jersey, June 20, 1889.
 Theodore Runyon, of New Jersey, March 23, 1893.

Ambassadors Extraordinary and Plenipotentiary

- Theodore Runyon, of New Jersey, September 14, 1893.
 Edwin F. Uhl, of Michigan, February 10, 1896.
 Andrew D. White, of New York, April 5, 1897.
 Charlemagne Tower, of Pennsylvania, September 26, 1902.
 David Jayne Hill, of New York, April 2, 1908.
 John G. A. Leishman, of Pennsylvania, August 12, 1911.
 James W. Gerard, of New York, July 28, 1913.

Commissioner

- Ellis Loring Dresel, of Massachusetts, November 4, 1919.

Chargé d'Affaires

- Ellis Loring Dresel, of Massachusetts, November 14, 1921.

Ambassadors Extraordinary and Plenipotentiary

- Alanson B. Houghton, of New York, February 10, 1922.
 Jacob Gould Schurman, of New York, March 17, 1925.
 Frederic M. Sackett, of Kentucky, January 9, 1930.
 William E. Dodd, of Illinois, June 13, 1933.

GREAT BRITAIN

Minister Plenipotentiary

- Thomas Pinckney, of South Carolina, January 12, 1792.

Envoy Extraordinary

- John Jay, of New York, April 19, 1794.

Ministers Plenipotentiary

- Rufus King, of New York, May 20, 1796.
 James Monroe, of Virginia, April 18, 1803.
 William Pinkney, of Maryland, May 12, 1806.

Chargé d'Affaires

Jonathan Russell, of Rhode Island, July 27, 1811.

Envoys Extraordinary and Ministers Plenipotentiary

John Quincy Adams, of Massachusetts, February 28, 1815.

Richard Rush, of Pennsylvania, October [day not given in record], 1817.

Rufus King, of New York, May 5, 1825.

Albert Gallatin, of Pennsylvania, May 10, 1826.

James Barbour, of Virginia, May 23, 1828.

Louis McLane, of Delaware, April 18, 1829.

Martin Van Buren, of New York, August 1, 1831.

Chargé d'Affaires

Aaron Vail, of New York, July 13, 1832.

Envoys Extraordinary and Ministers Plenipotentiary

Andrew Stevenson, of Virginia, March 16, 1836

Edward Everett, of Massachusetts, September 13, 1841.

Louis McLane, of Maryland, June 16, 1845

George Bancroft, of New York, September 9, 1846.

Abbott Lawrence, of Massachusetts, August 30, 1849

Joseph R. Ingersoll, of Pennsylvania, August 21, 1852

James Buchanan, of Pennsylvania, April 11, 1853

George M. Dallas, of Pennsylvania, February 4, 1856

Charles Francis Adams, of Massachusetts, March 20, 1861

Reverdy Johnson, of Maryland, June 12, 1868.

J. Lothrop Motley, of Massachusetts, April 13, 1869.

Robert C. Schenck, of Ohio, December 22, 1870.

Edwards Pierrepont, of New York, May 22, 1876.

John Welsh, of Pennsylvania, November 9, 1877.

James Russell Lowell, of Massachusetts, January 26, 1880.

Edward J. Phelps, of Vermont, March 23, 1885.

Robert T. Lincoln, of Illinois, March 30, 1889.

Ambassadors Extraordinary and Plenipotentiary

Thomas F. Bayard, of Delaware, March 30, 1893.

John Hay, of the District of Columbia, March 19, 1897.

Joseph H. Choate, of New York, January 19, 1899.

Whitelaw Reid, of New York, March 8, 1905

Walter Hines Page, of New York, April 21, 1913.

John W. Davis, of West Virginia, November 21, 1918.

George Harvey, of New Jersey, April 16, 1921.

Frank B. Kellogg, of Minnesota, December 11, 1923.

Alanson B. Houghton, of New York, February 24, 1925.
 Charles G. Dawes, of Illinois, April 16, 1929.
 Andrew W. Mellon, of Pennsylvania, February 6, 1932.
 Robert Worth Bingham, of Kentucky, March 23, 1933.

ITALY

Envoys Extraordinary and Ministers Plenipotentiary

George P. Marsh, of Vermont, March 20, 1861.
 William Waldorf Astor, of New York, August 4, 1882.
 John B. Stallo, of Ohio, June 17, 1885.
 Albert G. Porter, of Indiana, March 13, 1889.
 William Potter, of Pennsylvania, November 15, 1892.

Ambassadors Extraordinary and Plenipotentiary

Wayne MacVeagh, of Pennsylvania, December 20, 1893.
 William F. Draper, of Massachusetts, April 5, 1897.
 George von L. Meyer, of Massachusetts, December 14, 1900.
 Henry White, of Rhode Island, March 8, 1905.
 Lloyd C. Griscom, of Pennsylvania, December 19, 1906.
 John G. A. Leishman, of Pennsylvania, April 1, 1909.
 Thomas J. O'Brien, of Michigan, August 12, 1911.
 Thomas Nelson Page, of Virginia, June 21, 1913.
 Robert Underwood Johnson, of New York, February 18, 1920.
 Richard Washburn Child, of Massachusetts, May 26, 1921.
 Henry P. Fletcher, of Pennsylvania, February 19, 1924.
 John W. Garrett, of Maryland, September 11, 1929.
 Breckinridge Long, of Missouri, April 24, 1933.

JAPANESE EMPIRE

Ministers Resident

Townsend Harris, of New York, January 19, 1859.
 Robert H. Pruyn, of New York, October 12, 1861.
 Robert B. Van Valkenburgh, of New York, January 18, 1866.
 Charles E. De Long, of Nevada, April 21, 1869.

Envoys Extraordinary and Ministers Plenipotentiary

Charles E. De Long, of Nevada, July 14, 1870.
 John A. Bingham, of Ohio, May 31, 1873.
 Richard B. Hubbard, of Texas, April 2, 1885.
 John F. Swift, of California, March 12, 1889.
 Frank L. Coombs, of California, April 20, 1892.
 Edwin Dun, of Ohio, April 4, 1893.
 Alfred E. Buck, of Georgia, April 13, 1897.
 Lloyd C. Griscom, of Pennsylvania, December 16, 1902.

Ambassadors Extraordinary and Plenipotentiary

- Luke E. Wright, of Tennessee, January 25, 1906.
 Thomas J. O'Brien, of Michigan, June 11, 1907.
 Charles Page Bryan, of Illinois, August 12, 1911.
 Larz Anderson, of the District of Columbia, November 14, 1912.
 George W. Guthrie, of Pennsylvania, May 20, 1913.
 Roland S. Morris, of Pennsylvania, August 1, 1917.
 Charles Beacher Warren, of Michigan, June 29, 1921.
 Cyrus E. Woods, of Pennsylvania, March 3, 1923.
 Edgar A. Bancroft, of Illinois, September 23, 1924.
 Charles MacVeagh, of New Hampshire, September 24, 1925.
 William R. Castle, Jr., of the District of Columbia, December 11, 1929.
 W. Cameron Forbes, of Massachusetts, June 17, 1930.
 Joseph C. Grew, of New Hampshire, February 19, 1932.

MEXICO

Envoy Extraordinary and Minister Plenipotentiary

- Joel R. Poinsett, of South Carolina, March 8, 1825.

Chargés d'Affaires

- Anthony Butler, of Mississippi, October 12, 1829.
 Powhatan Ellis, of Mississippi, January 5, 1836.

Envoys Extraordinary and Ministers Plenipotentiary

- Powhatan Ellis, of Mississippi, February 15, 1839.
 Waddy Thompson, of South Carolina, February 10, 1842.
 Wilson Shannon, of Ohio, April 9, 1844.
 John Slidell, of Louisiana, November 10, 1845.
 Nathan Clifford, of Maine, July 28, 1848.
 Robert P. Letcher, of Kentucky, August 9, 1849.
 Alfred Conkling, of New York, August 6, 1852.
 James Gadsden, of South Carolina, May 24, 1853.
 John Forsyth, of Alabama, July 21, 1856.
 Robert M. McLane, of Maryland, March 7, 1859.
 John B. Weller, of California, November 17, 1860.
 Thomas Corwin, of Ohio, March 22, 1861.
 Lewis D. Campbell, of Ohio, May 4, 1866.
 Marcus Otterbourg, of Wisconsin, July 1, 1867.
 William S. Rosecrans, of Ohio, July 27, 1868.
 Thomas H. Nelson, of Indiana, April 16, 1869.
 John W. Foster, of Indiana, March 17, 1873.
 Philip H. Morgan, of Louisiana, January 26, 1880.

- Henry R. Jackson, of Georgia, March 23, 1885.
 Thomas C. Manning, of Louisiana, August 30, 1886.
 Edward S. Bragg, of Wisconsin, January 16, 1888.
 Thomas Ryan, of Kansas, March 30, 1889.
 Isaac P. Gray of Indiana, March 20, 1893.
 Matt W. Ransom, of North Carolina, February 23, 1895.
 Matt W. Ransom, of North Carolina, August 24, 1895.
 Powell Clayton, of Arkansas, March 22, 1897.

Ambassadors Extraordinary and Plenipotentiary

- Powell Clayton, of Arkansas, December 8, 1898.
 Edwin H. Conger, of Iowa, March 8, 1905.
 David E. Thompson, of Nebraska, January 24, 1906.
 Henry Lane Wilson, of Washington, December 21, 1909.
 Henry P. Fletcher, of Pennsylvania, February 25, 1916.
 Charles Beecher Warren, of Michigan, February 29, 1924.
 James Rockwell Sheffield, of New York, September 9, 1924.
 Dwight W. Morrow, of New Jersey, September 21, 1927.
 J. Reuben Clark, Jr., of Utah, October 3, 1930.
 Josephus Daniels, of North Carolina, March 17, 1933.

PERU

Chargés d'Affaires

- James Cooley, of Pennsylvania, May 2, 1826.
 Samuel Larned, of Rhode Island, December 29, 1828.
 Emanuel J. West, of Illinois, October 22, 1829.
 Samuel Larned, of Rhode Island, May 15, 1830.
 James B. Thornton, of New Hampshire, June 15, 1836.
 John A. Bryan, of Ohio, August 15, 1844.
 Albert G. Jewett, of Maine, March 13, 1845.
 John Randolph Clay, of Pennsylvania, March 3, 1847.

Envoys Extraordinary and Ministers Plenipotentiary

- John Randolph Clay, of Pennsylvania, March 16, 1853.
 Christopher Robinson, of Rhode Island, June 8, 1861.
 Alvin P. Hovey, of Indiana, August 12, 1865.
 Thomas Settle, of North Carolina, February 18, 1871.
 Francis Thomas, of Maryland, March 25, 1872.
 Richard Gibbs, of New York, April 9, 1875.
 Isaac P. Christiancy, of Michigan, February 11, 1879.
 Stephen A. Hurlbut, of Illinois, May 19, 1881.

Special Envoy Extraordinary and Minister Plenipotentiary

William Henry Trescott, of South Carolina, November 28, 1881.

Envoys Extraordinary and Ministers Plenipotentiary

James R. Partridge, of Maryland, April 12, 1882.

Seth Ledyard Phelps, of the District of Columbia, June 18, 1883.

Charles W. Buck, of Kentucky, April 2, 1885.

John Hicks, of Wisconsin, March 30, 1889.

James A. McKenzie, of Kentucky, April 4, 1893.

Irving B. Dudley, of California, June 28, 1897.

Leslie Combs, of Kentucky, December 19, 1906.

Henry Clay Howard, of Kentucky, January 18, 1911.

Benton McMillin, of Tennessee, July 2, 1913.

Ambassadors Extraordinary and Plenipotentiary

William E. Gonzales, of South Carolina, September 10, 1919.

Miles Poindexter, of Washington, February 19, 1923.

Alexander P. Moore, of Pennsylvania, March 29, 1928.

Fred Morris Dearing, of Missouri, January 31, 1930.

POLAND

Envoys Extraordinary and Ministers Plenipotentiary

Hugh S. Gibson, of California, April 16, 1919.

Alfred J. Pearson, of Iowa, April 2, 1924.

John B. Stetson, Jr., of Pennsylvania, July 3, 1925.

Ambassadors Extraordinary and Plenipotentiary

John N. Willys, of Ohio, March 8, 1930.

F. Lamot Belin, of Pennsylvania, November 2, 1932.

John Cudahy, of Wisconsin, June 13, 1933.

RUSSIA

See also Union of Soviet Socialist Republics

Minister Plenipotentiary

John Quincy Adams, of Massachusetts, June 27, 1809.

Envoys Extraordinary and Ministers Plenipotentiary

William Pinkney, of Maryland, March 7, 1816.

George Washington Campbell, of Tennessee, April 16, 1818.

Henry Middleton, of South Carolina, April 6, 1820.

John Randolph, of Virginia, May 26, 1830.

James Buchanan, of Pennsylvania, January 4, 1832.

William Wilkins, of Pennsylvania, June 30, 1834.

Chargé d'Affaires

John Randolph Clay, of Pennsylvania, June 29, 1836.

Envoys Extraordinary and Ministers Plenipotentiary

George M. Dallas, of Pennsylvania, March 7, 1837.

Churchill C. Cambreleng, of New York, May 20, 1840.

Charles S. Todd, of Kentucky, August 27, 1841.

Ralph I. Ingersoll, of Connecticut, August 8, 1846.

Arthur P. Bagby, of Alabama, June 15, 1848.

Neil S. Brown, of Tennessee, May 2, 1850.

Thomas H. Seymour, of Connecticut, May 24, 1853.

Francis W. Pickens, of South Carolina, January 11, 1858.

John Appleton, of Maine, June 8, 1860.

Cassius M. Clay, of Kentucky, March 28, 1861.

Simon Cameron, of Pennsylvania, January 17, 1862.

Cassius M. Clay, of Kentucky, March 11, 1863.

Andrew G. Curtin, of Pennsylvania, April 16, 1869.

James L. Orr, of South Carolina, December 12, 1872.

Marshall Jewell, of Connecticut, May 29, 1873.

George H. Boker, of Pennsylvania, January 13, 1875.

Edwin W. Stoughton, of New York, October 30, 1877.

John W. Foster, of Indiana, January 26, 1880.

William H. Hunt, of Louisiana, April 12, 1882.

Alphonso Taft, of Ohio, July 4, 1884.

George V. N. Lothrop, of Michigan, May 7, 1885.

Lambert Tree, of Illinois, September 25, 1888.

Allen Thorndike Rice, of New York, March 30, 1889.

Charles Emory Smith, of Pennsylvania, February 14, 1890.

Andrew D. White, of New York, July 22, 1892.

Clifton R. Breckinridge, of Arkansas, July 20, 1894.

Ethan A. Hitchcock, of Missouri, August 16, 1897.

Ambassadors Extraordinary and Plenipotentiary

Ethan A. Hitchcock, of Missouri, February 11, 1898.

Charlemagne Tower, of Pennsylvania, January 12, 1899.

Robert S. McCormick, of Illinois, September 25, 1902.

George von L. Meyer, of Massachusetts, March 8, 1905.

John W. Riddle, of Minnesota, December 19, 1906.

William Woodville Rockhill, of the District of Columbia, May 17, 1909.

Curtis Guild, of Massachusetts, April 24, 1911.

George T. Marye, of California, July 9, 1914.

David R. Francis, of Missouri, March 6, 1916.

SPAIN

Chargé d'Affaires

William Carmichael, of Maryland, April 20, 1790.

Minister Resident

William Short, of Virginia, May 28, 1794.

Envoy Extraordinary

Thomas Pinckney, of South Carolina, November 24, 1794.

Ministers Plenipotentiary

David Humphreys, of Connecticut, May 20, 1796.

Charles Pinckney, of South Carolina, June 6, 1801.

James Bowdoin, of Massachusetts, November 22, 1804.

George W. Erving, of Massachusetts, August 10, 1814.

John Forsyth, of Georgia, February 16, 1819.

Hugh Nelson, of Virginia, January 15, 1823.

Envoys Extraordinary and Ministers Plenipotentiary

Alexander Hill Everett, of Massachusetts, March 9, 1825.

Cornelius P. Van Ness, of Vermont, June 1, 1829.

William T. Barry, of Kentucky, April 10, 1835.

John H. Eaton, of Tennessee, March 16, 1836.

Chargé d'Affaires

Aaron Vail, of New York, May 20, 1840.

Envoys Extraordinary and Ministers Plenipotentiary

Washington Irving, of New York, February 10, 1842.

Romulus M. Saunders, of North Carolina, February 25, 1846.

Daniel M. Barringer, of North Carolina, June 18, 1849.

Pierre Soulé, of Louisiana, April 7, 1853.

Augustus C. Dodge, of Iowa, February 9, 1855.

William Preston, of Kentucky, December 15, 1858.

Carl Schurz, of Wisconsin, March 28, 1861.

Gustavus Koerner, of Illinois, June 14, 1862.

John P. Hale, of New Hampshire, March 10, 1865.

Daniel E. Sickles, of New York, May 15, 1869.

Caleb Cushing, of Virginia, January 6, 1874.

James Russell Lowell, of Massachusetts, June 11, 1877.

Lucius Fairchild, of Wisconsin, January 26, 1880.

Hannibal Hamlin, of Maine, June 30, 1881.

John W. Foster, of Indiana, February 27, 1883.

Jabez L. M. Curry, of Virginia, October 7, 1885.

Perry Belmont, of New York, November 17, 1888.

Thomas W. Palmer, of Michigan, March 12, 1889.

E. Burd Grubb, of New Jersey, September 27, 1890.

Special Envoy Extraordinary and Minister Plenipotentiary

John W. Foster, of Indiana, March 6, 1891.

Envoys Extraordinary and Ministers Plenipotentiary

A. Loudon Snowden, of Pennsylvania, July 22, 1892.

Hannis Taylor, of Alabama, April 8, 1893.

Stewart L. Woodford, of New York, June 19, 1897.

Bellamy Storer, of Ohio, April 12, 1899.

Arthur S. Hardy, of New Hampshire, September 26, 1902.

William Miller Collier, of New York, March 8, 1905.

Henry Clay Ide, of Vermont, April 1, 1909.

Joseph E. Willard, of Virginia, July 28, 1913.

Ambassadors Extraordinary and Plenipotentiary

Joseph E. Willard, of Virginia, September 10, 1913.

Cyrus E. Woods, of Pennsylvania, June 24, 1921.

Alexander P. Moore, of Pennsylvania, March 3, 1923.

Ogden H. Hammond, of New Jersey, December 21, 1925.

Irwin B. Laughlin, of Pennsylvania, October 16, 1929.

Claude G. Bowers, of New York, April 6, 1933.

TURKEY

Chargé d'Affaires

David Porter, of Maryland, April 15, 1831.

Ministers Resident

David Porter, of Maryland, March 3, 1839.

Dabney S. Carr, of Maryland, October 6, 1843.

George P. Marsh, of Vermont, May 29, 1849.

Carroll Spence, of Maryland, August 23, 1853.

James Williams, of Tennessee, January 14, 1858.

Edward Joy Morris, of Pennsylvania, June 8, 1861.

Wayne MacVeagh, of Pennsylvania, June 4, 1870.

George H. Boker, of Pennsylvania, November 3, 1871.

Horace Maynard, of Tennessee, March 9, 1875.

James Longstreet, of Georgia, June 14, 1880.

Lewis Wallace, of Indiana, May 19, 1881.

Envoys Extraordinary and Ministers Plenipotentiary

Lewis Wallace, of Indiana, July 13, 1882.

Samuel S. Cox, of New York, March 25, 1885.
 Oscar S. Straus, of New York, March 24, 1887.
 Solomon Hirsch, of Oregon, May 16, 1889.
 David P. Thompson, of Oregon, November 15, 1892.
 Alexander W. Terrell, of Texas, April 15, 1893.
 James B. Angell, of Michigan, April 15, 1897.
 Oscar S. Straus, of New York, June 3, 1898.
 John G. A. Leishman, of Pennsylvania, December 20, 1900.

Ambassadors Extraordinary and Plenipotentiary

John G. A. Leishman, of Pennsylvania, June 18, 1906.
 Oscar S. Straus, of New York, May 17, 1909.
 William Woodville Rockhill, of the District of Columbia, April 24, 1911.
 Henry Morgenthau, of New York, September 4, 1913.
 Abram I. Elkus, of New York, July 21, 1916.

Commissioners

Lewis Heck, of Pennsylvania, November 30, 1918.
 Gabriel B. Ravndal, of South Dakota, May 3, 1919.

High Commissioner

Rear Admiral Mark L. Bristol, of the United States Navy,
 August 12, 1919.

Ambassadors Extraordinary and Plenipotentiary

Joseph C. Grew, of New Hampshire, May 19, 1927.
 Charles Hitchcock Sherrill, of New York, March 17, 1932.
 Robert P. Skinner, of Ohio, June 13, 1933.

UNION OF SOVIET SOCIALIST REPUBLICS

Ambassador Extraordinary and Plenipotentiary

William C. Bullitt, of Pennsylvania, November 21, 1933.

APPENDIX C

THE MOSES-LINTHICUM ACT OF FEBRUARY 23, 1931 ¹

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the clerks in the Foreign Service of the United States of America shall be graded and classified as follows, and shall receive, within the limitation of such appropriations as the Congress may make, the basic compensations specified:

CLERKS: CLASSIFICATION—SALARIES

Senior clerks Class 1, \$4,000; class 2, \$3,750, class 3, \$3,500; class 4, \$3,250, class 5, \$3,000.

Junior clerks. Class 1, \$2,750, class 2, \$2,500; class 3, all clerks whose compensation as fixed by the Secretary of State is less than \$2,500 per annum.

SEC 2 Appointments to the grade of senior clerks and advancement from class to class in that grade shall hereafter be by promotion for efficient service, and no one shall be promoted to the grade of senior clerk who is not an American citizen and has not served as a clerk in a diplomatic mission or a consulate, or both, or as a clerk in the Department of State for at least five years.

ADDITIONAL COMPENSATION OF CLERKS AT CERTAIN POSTS

SEC. 3. That the Secretary of State is hereby authorized, at posts where in his judgment it is required by the public interests for the purpose of meeting the unusual or excessive costs of living ascertained by him to exist, to grant compensation to clerks assigned there in addition to the basic rates herein specified, within such appropriations as Congress may make for such purpose. *Provided, however*, That all such additional compensation with the reasons therefor be reported to Congress with the annual Budget.

¹ The subtitles do not appear in the act, but have been inserted for the reader's guidance

[Public—No. 715—71st Congress H R 9110]

An Act For the grading and classification of clerks in the Foreign Service of the United States of America, and providing compensation therefor.

CITIZENSHIP OF CLERKS IN EMBASSIES AND LEGATIONS

SEC. 4. No clerk who is not an American citizen shall hereafter be appointed to serve in a diplomatic mission

SEC. 5. The President is hereby authorized to prescribe regulations for the administration of the foregoing provisions.

SEC. 6. Section 5 of the Act of April 5, 1906, entitled "An Act to provide for the reorganization of the Consular Service" (United States Code, page 646, section 57), is hereby repealed.

REORGANIZATION AND IMPROVEMENT OF THE FOREIGN SERVICE

SEC. 7. That the Act (Public Numbered 135, Sixty-eighth Congress) approved May 24, 1924, entitled "An Act for the reorganization and improvement of the Foreign Service of the United States, and for other purposes," be, and the same is hereby, amended to read as follows:

"SEC. 8. That hereafter the Diplomatic and Consular Service of the United States shall be known as the Foreign Service of the United States.

OFFICERS: DESIGNATION—PROMOTION—ASSIGNMENT

"SEC. 9. That the official designation 'Foreign Service officers,' as employed throughout this Act, shall be deemed to denote permanent officers in the Foreign Service below the grade of minister, all of whom are subject to promotion on merit and who may be appointed to either diplomatic or consular positions or assigned to serve in the Department of State subject to section 21 of this Act, at the discretion of the President.

OFFICERS: CLASSIFICATION—SALARIES

"SEC. 10. That the officers in the Foreign Service shall hereafter be graded and classified as follows with the salaries of each class herein affixed thereto, except as increases in salaries are authorized in section 33 of this Act, but not exceeding in number for each class a proportion of the total number of officers in the service represented in the following percentage limitations:

"Ambassadors and ministers as now or hereafter provided: Foreign Service officers as follows: Class 1, 6 per centum, \$9,000 to \$10,000; class 2, 7 per centum, \$8,000 to \$8,900; class 3, 8 per centum, \$7,000 to \$7,900; class 4, 9 per centum, \$6,000 to \$6,900; class 5, 10 per centum, \$5,000 to \$5,900; class 6, 14 per centum, \$4,500 to

\$4,900; class 7, \$4,000 to \$4,400; class 8, \$3,500 to \$3,900, unclassified, \$2,500 to \$3,400: *Provided*, That as many Foreign Service officers above class 6 as may be required for the purpose of inspection may be detailed by the Secretary of State for that purpose.

APPOINTMENTS AS SECRETARIES OR CONSULS

"SEC. 11. That Foreign Service officers may be commissioned as diplomatic or consular officers or both: *Provided*, That all such appointments shall be made by and with the advice and consent of the Senate: *And provided further*, That all official acts of such officers while serving under diplomatic or consular commissions in the Foreign Service shall be performed under their respective commissions as secretaries or as consular officers.

EXAMINATION—PROBATION—TRANSFER FROM DEPARTMENT—CITIZENSHIP—REINSTATEMENT—APPOINTMENT TO CLASS, NOT POST—TRANSFER—PRESENT COMMISSIONS VALID

"SEC. 12. That hereafter appointments to the position of Foreign Service officer shall be made after examination and officers so appointed shall serve a suitable period of probation in an unclassified grade or, under such rules and regulations as the President may prescribe, after five years of continuous service in an executive or quasi-executive position in the Department of State, by transfer therefrom, *Provided*, That no candidate shall be eligible for examination for Foreign Service officer who is not an American citizen and who shall not have been such at least fifteen years: *Provided further*, That reinstatement of Foreign Service officers separated from the classified service by reason of appointment to some other position in the Government service may be made by Executive order of the President under such rules and regulations as he may prescribe. Except that the number of such officers reinstated shall not affect the number of the percentage of the class provided in section 10

"All appointments of Foreign Service officers shall be by commission to a class and not by a commission to a particular post, and such officers shall be assigned to posts and may be transferred from one post to another by order of the President as the interests of the service may require: *Provided*, That the classification of secretaries in the Diplomatic Service and of consular officers is hereby abolished without, however, in any wise impairing the validity of the present commissions of secretaries and consular officers

REPORTS TO PRESIDENT AS TO EFFICIENCY—PROMOTION AND APPOINTMENT FOR EFFICIENCY

"SEC. 13 That section 5 of the Act of February 5, 1915 (Public, Numbered 242), is hereby repealed.

"SEC. 14. That the Secretary of State is directed to report from time to time to the President, along with his recommendations, the names of those Foreign Service officers who by reason of efficient service have demonstrated special capacity for promotion to the grade of minister and the names of those Foreign Service officers and clerks and officers and employees in the Department of State who by reason of efficient service, an accurate record of which shall be kept in the Department of State, have demonstrated special efficiency, and also the names of persons found upon taking the prescribed examination to have fitness for appointment to the service, and any Foreign Service officer who may hereafter be promoted to a higher class within the classification prescribed in section 10 of this Act shall have the status and receive the compensation attaching to such higher class from the date stated in his commission as the effective date of his promotion to such higher class.

CONSULAR ASSISTANTS ABOLISHED

"That the grade of consular assistant is hereby abolished.

ALL OFFICERS TO BE BONDED

"SEC. 15. That sections 1697 and 1698 of the Revised Statutes are hereby repealed

"SEC. 16. Every secretary, consul general, consul, vice consul of career, or Foreign Service officer, before he receives his commission or enters upon the duties of his office, shall give to the United States a bond, in such form as the President shall prescribe, with such sureties, who shall be permanent residents of the United States, as the Secretary of State shall approve, in a penal sum not less than the annual compensation allowed to such officer, conditioned for the true and faithful accounting for, paying over, and delivering up of all fees, moneys, goods, effects, books, records, papers, and other property which shall come to his hands or to the hands of any other person to his use as such officer under any law now or hereafter enacted, and for the true and faithful performance of all other duties now or hereafter lawfully imposed upon him as such officer: *Provided*, That the operation of no existing bond shall in any wise be impaired by the

provisions of this Act: *Provided further*, That such bond shall cover by its stipulations all official acts of such officer, whether commissioned as diplomatic or consular officer or Foreign Service officer. The bonds herein mentioned shall be deposited with the Secretary of the Treasury.

FOREIGN SERVICE INSPECTORS

"SEC. 17. That the provisions of section 4 of the Act of April 5, 1906, relative to the powers, duties, and prerogatives of consuls general at large are hereby made applicable to the Foreign Service officers detailed for the purpose of inspection, who shall, under the direction of the Secretary of State, inspect in a substantially uniform manner the work of diplomatic and consular offices.

OFFICIAL FEES

"SEC. 18. That the provisions of sections 8 and 10 of the Act of April 5, 1906, relative to official fees and the method of accounting therefor shall apply to diplomatic officers below the grade of minister and to consular officers.

REPRESENTATION AND POST ALLOWANCES

"SEC. 19. That under such regulations as the President may prescribe, and within the limitations of such appropriations as may be made therefor, which appropriations are hereby authorized, ambassadors, ministers, diplomatic, consular, and Foreign Service officers may be granted allowances for representation; and also post allowances wherever the cost of living may be proportionately so high that in the opinion of the Secretary of State such allowances are necessary to enable such diplomatic, consular, and Foreign Service officers to carry on their work efficiently: *Provided*, That all such allowances shall be accounted for to the Secretary of State in such manner and under such rules and regulations as the President may prescribe and the authorization and approval of such expenditures by the Secretary of State, as complying with such rules and regulations, shall be binding upon all officers of the Government: *Provided further*, That the Secretary of State shall report all such expenditures annually to the Congress with the Budget estimates of the Department of State.

PRIVATE SECRETARIES TO AMBASSADORS

"SEC. 20. Appropriations are authorized for the salary of a pri-

vate secretary to each ambassador to be appointed by the ambassador and hold office at his pleasure.

ASSIGNMENT TO DEPARTMENT OF STATE—DETAIL TO
CONFERENCES, ETC.

"SEC. 21. That any Foreign Service officer may be assigned for duty in the Department of State without loss of class or salary, such assignment to be for a period of not more than three years, unless the public interests demand further service, when such assignment may be extended for a period not to exceed one year. Notwithstanding the provisions of section 1742 of the Revised Statutes of the United States, any ambassador or minister or any Foreign Service officer of whatever class detailed for duty in connection with trade conferences or international gatherings, congresses, or conferences, or for other special duty not at his post or in the Department of State, except temporarily for purposes of consultation, shall be paid his salary and expenses for travel and subsistence at the rates prescribed by law.

LEAVE OF ABSENCE

"SEC. 22 That the Secretary of State is authorized, whenever he deems it to be in the public interest, to order to the United States on his statutory leave of absence any Foreign Service officer or vice consul of career who has performed three years or more of continuous service abroad: *Provided*, That the expenses of transportation and subsistence of such officers and their immediate families, in traveling from their posts to their homes in the United States and return, shall be paid under the same rules and regulations applicable in the case of officers going to and returning from their posts under orders of the Secretary of State when not on leave: *And provided further*, That while in the United States the services of such officers shall be available for trade conference work or for such duties in the Department of State as the Secretary of State may prescribe, but the time of such work or duties shall not be counted as leave.

"The Secretary of State is authorized, in his discretion and subject to such regulations as may be issued by the President to grant to any officer or employee of the Foreign Service not to exceed sixty days annual leave of absence with pay. If such officer or employee returns to the United States, the leave of absence granted under the provisions of this section shall be exclusive of the time actually and necessarily occupied in going to and from the United States, and such time as may be necessarily occupied in awaiting sailing. Any portion

of sixty days annual leave not granted or availed of in any one year may be cumulative, not to exceed exclusive of time in transit and awaiting sailing, one hundred and twenty days in three years or one hundred and eighty days in four years: *Provided further*, That employees, not American citizens, may be granted not to exceed thirty days leave of absence with pay in any one year.

"The Secretary of State is also authorized to grant to any officer or employee of the Foreign Service on account of personal illness or on account of exposure to a contagious disease which would render presence at a post of duty hazardous to the health of fellow employees, sick leave of absence with pay at the rate of fifteen days a year, the unused portion of such sick leave to be cumulative not to exceed one hundred and twenty days: *Provided*, That during the first year of operation of this act not to exceed thirty days of additional sick leave of absence with pay may be granted.

"No Foreign Service officer shall be absent from his post with pay for more than forty-eight hours without permission, except as provided herein.

"Section 1742 of the Revised Statutes is hereby repealed.

COUNSELORS OF EMBASSY OR LEGATION

"SEC. 23. That the part of the Act of July 1, 1916 (Public Numbered 131), which authorizes the President to designate and assign any secretary of class 1 as counselor of embassy or legation, is hereby amended to read as follows:

"*Provided*, That the President may, whenever he considers it advisable so to do, designate and assign any Foreign Service officer as counselor of embassy or legation."

FOREIGN SERVICE OFFICER AS COMMISSIONER, CHARGÉ, MINISTER RESIDENT, DIPLOMATIC AGENT—SALARY AS CHARGÉ OR CONSUL IN CHARGE

"SEC. 24. That within the discretion of the President, any Foreign Service officer may be assigned to act as commissioner, chargé d'affaires, minister resident, or diplomatic agent for such period as the public interests may require without loss of grade, class, or salary: *Provided, however*, That no such officer shall receive more than one salary.

"SEC. 25. That for such times as any Foreign Service officer shall be lawfully authorized to act as chargé d'affaires *ad interim* or to

assume charge of a consulate general or consulate during the absence of the principal officer at the post to which he shall have been assigned, he shall, if his salary is less than one-half that of such principal officer, receive in addition to his salary as Foreign Service officer, compensation equal to the difference between such salary and one-half of the salary provided by law for the ambassador, minister, or principal consular officer, as the case may be.

RETIREMENT SYSTEM

"SEC. 26. The President is authorized to prescribe rules and regulations for the establishment of a Foreign Service retirement and disability system to be administered under the direction of the Secretary of State and in accordance with the following principles, to wit:

REPORT OF FUNDS—APPROPRIATIONS

"(a) The Secretary of State shall submit annually a comparative report showing all receipts and disbursements on account of refunds, allowances, and annuities, together with the total number of persons receiving annuities and the amounts paid them, and shall submit annually estimates of appropriations necessary to continue this section in full force and such appropriations are hereby authorized: *Provided*, That in no event shall the aggregate total appropriations exceed the aggregate total of the contributions of the Foreign Service officers theretofore made, and accumulated interest thereon.

RETIREMENT AND DISABILITY FUND

"(b) There is hereby created a special fund to be known as the Foreign Service retirement and disability fund.

FIVE PER CENT DEDUCTION—BASIC SALARIES

"(c) Five per centum of the basic salary of all Foreign Service officers eligible to retirement shall be contributed to the Foreign Service retirement and disability fund, and the Secretary of the Treasury is directed on the date on which this Act takes effect to cause such deductions to be made and the sums transferred on the books of the Treasury Department to the credit of the Foreign Service retirement and disability fund for the payment of annuities, refunds, and allowances: *Provided*, That all basic salaries in excess of \$10,000 per annum shall be treated as \$10,000.

AGE OF RETIREMENT

"(d) When any Foreign Service officer has reached the age of sixty-five years and rendered at least fifteen years of service he shall be retired: *Provided*, That if any such officer shall have served thirty years he may be retired at his own request before reaching the age of sixty-five years: *Provided further*, That the President may in his discretion retain any such officer on active duty for such period prior to his reaching seventy years of age, as he may deem for the interests of the United States.

ANNUITY CLASSES

"(e) Annuities shall be paid to retired Foreign Service officers under the following classification, based upon length of service and at the following percentages of the average annual basic salary for the ten years next preceding the date of retirement: Class A, thirty years or more, 60 per centum; Class B, from twenty-seven to thirty years, 54 per centum; Class C, from twenty-four to twenty-seven years, 48 per centum; Class D, from twenty-one to twenty-four years, 42 per centum, Class E, from eighteen to twenty-one years, 36 per centum; Class F, from fifteen to eighteen years, 30 per centum: *Provided, however*, That in computing the average annual basic salary for the ten years next preceding the date of retirement, so much of an officer's service as was rendered prior to July 1, 1924, in accordance with the classification and salaries established by laws then in effect, as it is possible to credit to him by applying to all such periods of service rendered prior to July 1, 1924, the rules for corresponding classes in the reclassification provisions in section 7 of the Act of May 24, 1924, shall be considered as having been performed in accordance with the classifications and salaries established for Foreign Service officers in section 3 of the Act of May 24, 1924: *And provided further*, That no increases in annuities under this Act shall operate retroactively and nothing in this Act shall be interpreted as reducing the rate of the annuity received by any retired officer on the effective date of this Act.

REFUNDS FOR EARLY RETIREMENT

"(f) Those officers who retire before having contributed for each year of service shall have withheld from their annuities to the credit of the Foreign Service retirement and disability fund such proportion of 5 per centum as the number of years in which they did not contribute bears to the total length of service: *Provided*, That no

deductions shall be made from the annuities of officers who have contributed thirty years, and no officer shall be required to contribute more than thirty years in any circumstances.

INVESTMENT OF RETIREMENT AND DISABILITY FUND

“(g) The Secretary of the Treasury is directed to invest from time to time in interest-bearing securities of the United States such portions of the Foreign Service retirement and disability fund as in his judgment may not be immediately required for the payment of annuities, refunds, and allowances, and the income derived from such investments shall constitute a part of said fund.

FUNDS NOT ASSIGNABLE OR SUBJECT TO LEGAL PROCESS

“(h) None of the moneys mentioned in this section shall be assignable either in law or equity, or be subject to execution, levy, or attachment, garnishment, or other legal process.

DEATH OF ANNUITANT

“(i) In case an annuitant dies without having received in annuities an amount equal to the total amount of his contributions from salary with interest thereon at 4 per centum per annum compounded annually up to the time of his death, the excess of said accumulated contributions over the said annuity payments shall be paid to his or her legal representatives; and in case a Foreign Service officer shall die without having reached the retirement age the total amount of his contribution with accrued interest shall be paid to his legal representatives.

RETIREMENT FOR DISABILITY—PHYSICAL EXAMINATION— RECOVERY

“(j) That any Foreign Service officer who, before reaching the age of retirement becomes totally disabled for useful and efficient service by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the President, be retired on an annuity under paragraph (e) of this section: *Provided, however,* That in each case such disability shall be determined by the report of a duly qualified physician or surgeon designated by the Secretary of State to conduct the examination: *Provided further,* That unless the disability be permanent, a like examination shall be made annually in order to determine the degree of disability, and the payment of

annuity shall cease from the date of the medical examination showing recovery.

"Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Foreign Service retirement and disability fund.

"When the annuity is discontinued under this provision before the annuitant has received a sum equal to the total amount of his contributions, with accrued interest, the difference shall be paid to him or to his legal representatives.

UNHEALTHFUL POST

"(k) The President is authorized from time to time to establish, by Executive order, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts, and each year of duty subsequent to January 1, 1900, at such posts inclusive of regular leaves of absence, of officers already retired or hereafter retired, shall be counted as one year and a half, and so on in like proportion in reckoning the length of service for the purpose of retirement, fractional months being considered as full months in computing such service: *Provided, however,* That the President may at any time cancel the designation of any places as unhealthful without affecting any credit which has accrued for service at such posts prior to the date of the cancellation.

SEPARATION FROM THE SERVICE

"(l) Whenever a Foreign Service officer becomes separated from the service except for disability before reaching the age of retirement, or under section 33 of this Act, the total amount of contribution from his salary with interest thereon at 4 per centum per annum compounded annually up to the date of such separation, shall be returned to him.

EXPENSES

"(m) The Secretary of State is authorized to expend from surplus money to the credit of the Foreign Service retirement and disability fund an amount not exceeding \$5,000 per annum for the expenses necessary in carrying out the provisions of this section, including actuarial advice.

AMBASSADORS, MINISTERS, OFFICERS OF THE DEPARTMENT

"(n) Any diplomatic secretary or consular officer who has been or any Foreign Service officer who may hereafter be promoted from the classified service to the grade of ambassador or minister, or appointed to a position in the Department of State, shall be entitled to all the benefits of this section in the same manner and under the same conditions as Foreign Service officers: *Provided*, That any officer now included under the Act of May 24, 1924, and the amendment thereto of July 3, 1926, shall be entitled to the benefits of this section.

PERIOD OF SERVICE FOR ANNUITIES

"(o) For the purposes of this Act the period of service shall be computed from the date of original oath of office as diplomatic secretary, consul general, consul, vice consul, deputy consul, consular assistant, consular agent, commercial agent, interpreter, or student interpreter, and shall include periods of service at different times as either a diplomatic or consular officer, or while on assignment to the Department of State, or on special duty or service in another department or establishment of the Government, but all periods of separation from the service and so much of any period of leave of absence without pay as may exceed six months shall be excluded: *Provided*, That service in the Department of State or as clerk in a mission or consulate prior to appointment as a Foreign Service officer may be included in the period of service, in which case the officer shall pay into the Foreign Service retirement and disability fund a special contribution equal to 5 per centum of his annual salary for each year of such employment, with interest thereon to date of payment compounded annually at 4 centum, provided that such special contribution shall be subject to the limitations established by subdivision (f) of this section.

RECALL TO SERVICE

"SEC. 27. In the event of public emergency any retired Foreign Service officer may be recalled temporarily to active service by the President, and while so serving he shall be entitled in lieu of his retirement allowance to the full pay of the class in which he is temporarily serving.

PRIOR PROVISIONS OF LAW

"SEC. 28. That all provisions of law heretofore enacted relating to diplomatic secretaries and to consular officers, which are not inconsistent with the provisions of this Act, are hereby made applicable to Foreign Service officers when they are designated for service as diplomatic or consular officers, and that all Acts or parts of Acts inconsistent with this Act are hereby repealed.

CERTAIN APPROPRIATIONS MADE AVAILABLE

"SEC. 29. That the appropriations contained in Title I of the Act entitled 'An Act making appropriations for the Departments of State and Justice and for the Judiciary and for the Departments of Commerce and Labor for the fiscal year ending June 30, 1932, and for other purposes,' for such compensation and expenses as are affected by the provisions of this Act are made available and may be applied toward the payment of the compensation and expenses herein provided.

LEGAL ADVISER IN THE DEPARTMENT OF STATE

"SEC. 30. That there is hereby established in the Department of State the office of legal adviser (in lieu of the Solicitor of the Department of State, which officer is hereby abolished). The legal adviser shall be appointed by the President by and with the advice and consent of the Senate and shall receive the same salary as Assistant Secretaries of State.

BOARD OF FOREIGN SERVICE PERSONNEL

"SEC. 31. There shall be in the Department of State a Board of Foreign Service Personnel for the Foreign Service, whose duty it shall be to recommend promotions in the Foreign Service and to furnish the Secretary of State with lists of Foreign Service officers who have demonstrated special capacity for promotion to the grade of minister. The board shall be composed of not more than three Assistant Secretaries of State, one of whom shall be the Assistant Secretary of State having supervision over the Division of Foreign Service Personnel, who shall be chairman. The Chief of the Division of Foreign Service Personnel and one other member of the division may attend the meetings of the board and one of them shall act as secretary, but they shall not be entitled to vote in its proceedings. No Foreign Service officer below class I shall be assigned for

duty in the Division of Foreign Service Personnel. Foreign Service officers assigned to the division shall not be eligible for recommendation by the Board of Foreign Service Personnel for promotion to the grade of minister or ambassador during the period of such assignment or for three years thereafter, nor shall such officers be given any authority except of a purely advisory character, over promotions, demotions, transfers, or separations from the service of Foreign Service officers.

DUTIES OF THE DIVISION OF FOREIGN SERVICE PERSONNEL

"SEC. 32. The Division of Foreign Service Personnel shall assemble, record, and be the custodian of all available information in regard to the character, ability, conduct, quality of work, industry, experience, dependability and general availability of Foreign Service officers, including reports of inspecting officers and efficiency reports of supervising officers. All such information shall be appraised at least once in two years and the result of such appraisal expressed in terms of excellent, very good, satisfactory, or unsatisfactory, accompanied by a concise statement of the considerations upon which they are based, shall be entered upon records to be known as the efficiency records of the officers, and shall constitute their efficiency ratings for the period. No charges against an officer that would adversely affect his efficiency rating or his value to the service, if true, shall be taken into consideration in determining his efficiency rating except after the officer shall have had opportunity to reply thereto. The Assistant Secretary of State supervising the Division of Foreign Service Personnel shall be responsible for the keeping of accurate and impartial efficiency records of Foreign Service officers and shall take all measures necessary to ensure their accuracy and impartiality. Not later than November 1 at least every two years, the Division of Foreign Service Personnel shall, under the supervision of the Assistant Secretary of State, prepare a list in which all Foreign Service officers shall be graded in accordance with their relative efficiency and value to the service. In this list officers shall be graded as excellent, very good, satisfactory, or unsatisfactory with such further subclassification as may be found necessary. All officers rated satisfactory or above shall be eligible for promotion in the order of merit to the minimum salary of the next higher class. This list shall not become effective in so far as it affects promotion until it has been considered by the Board of Foreign Service Personnel hereinbefore provided for and approved by the Secretary of State: *Provided*, That this list shall not be changed before the next succeeding list of ratings is approved except in case

of extraordinary or conspicuously meritorious service or serious misconduct and any change for such reasons shall be made only after consideration by the Board of Foreign Service Personnel and approval by the Secretary of State, and the reasons for such change when made shall be inscribed upon the efficiency records of the officers affected. From this list of all Foreign Service officers recommendations for promotion shall be made in the order of their ascertained merit within classes. Recommendations shall also be made, in order of merit, as shown by ratings in the examinations for appointment to the unclassified grade, with commissions also as diplomatic secretaries and vice consuls, of those who have successfully passed the examinations. All such recommendations shall be submitted to the Secretary of State for his consideration and if he shall approve, for transmission to the President.

"The correspondence and records of the Division of Foreign Service Personnel shall be confidential except to the President, the Secretary of State, the members of the Board of Foreign Service Personnel, the Assistant Secretary of State supervising the division, and such of its employees as may be assigned to work on such correspondence and records.

INCREASE IN SALARY FOR SATISFACTORY OR MERITORIOUS SERVICE—
RETIREMENT ON ACCOUNT OF UNSATISFACTORY SERVICE—SEPA-
RATION FOR MALFEASANCE IN OFFICE

"SEC 33. That notwithstanding the provisions of section 10 of this Act all Foreign Service officers having a rating of satisfactory or better who shall have been in classes 5, 6, 7, or 8 for a continuous period of nine months or more, shall, on the first day of each fiscal year receive an increase of salary of \$100, except that no officer shall receive a salary above the maximum of his class and all such officers in classes 1, 2, 3, or 4 shall in the same circumstances receive an increase of \$200: *Provided*, That the Secretary of State is authorized to fix the salaries of Foreign Service officers in the unclassified grade within the salary range specified in section 10 of this Act; and, within the limits of appropriation therefor, to grant to Foreign Service officers in any class additional promotion in salary within the salary range established for the classes in which they are serving, based upon especially meritorious service. Increases in salary under the terms of this section shall be paid to Foreign Service officers only as the right to such increases accrues after the effective date of this Act. The President is hereby authorized to establish by Executive order, regulations providing for the separation of Foreign Service officers

from the Foreign Service, in accordance with the conditions herein-after prescribed. Foreign Service officers so separated from the Foreign Service shall be retired from the service, after a hearing by the Secretary of State, upon an annuity equal to 25 per centum of his salary at the time of retirement, in the case of officers over forty-five years of age or in the case of officers under forty-five years of age with a bonus of one year's salary at the time of his retirement, either annuity or one year's salary to be payable out of the Foreign Service officers' retirement and disability fund and except as herein provided, subject to the same provisions and limitations as other annuities payable out of such funds; but no return of contributions shall be made under paragraphs (i) or (l) of section 26 of this Act in the case of any Foreign Service officer retired under the provisions of this section. Whenever it is determined that the efficiency rating of an officer is unsatisfactory, thereby meaning below the standard required for the service, and such determination has been confirmed by the Secretary of State, the officer shall be notified thereof, and if, after a reasonable period to be determined by the circumstances in each particular case, the rating of such officer continues to be found unsatisfactory and such finding is confirmed by the Secretary of State after a hearing accorded the officer, such officer shall be separated from the service with the annuity or bonus provided in this section, but no officer so separated from the service shall receive the said annuity or bonus unless at the time of separation he shall have served at least fifteen years. He shall, however, if he has not served at least fifteen years have returned to him the full sum of his contribution to the annuity fund, with interest thereon at 4 per centum compounded annually. The benefits of this section, except at the option of the Secretary of State the return of an officer's contribution to the annuity fund, shall not be given to Foreign Service officers separated from the Foreign Service on account of malfeasance in office.

SALARY NOT TO BE REDUCED UPON PROMOTION TO A HIGHER CLASS

"SEC. 34. That nothing in this Act shall be construed to reduce the salary of any Foreign Service officer upon promotion to a higher class.

DISTRICT ACCOUNTING AND DISBURSING OFFICES

"SEC. 35. That the President is hereby authorized, whenever the necessity for such offices with a view to effecting economies in accounting procedure is apparent, to prescribe certain fiscal districts or areas and to establish within each such district as a part of the Department of State service, a district accounting and disbursing office to

exercise control over the accounts and returns of all diplomatic missions and consular offices within the district in such manner as the President may direct. To each such office may be assigned the administrative accounting responsibility for receipts and expenditures of the diplomatic missions and consular offices within the district. Each district office shall be in charge of an accountable officer, to whom all fees, and other official monies, received by any diplomatic, consular, or Foreign Service officer may be accounted for, under such rules and regulations as may be prescribed by the Secretary of State, all such fees and monies, or the residue thereof after the payment of salaries, allowances, and current expenses of the diplomatic missions and consular offices within the district, to be paid by the district accounting and disbursing officer into the Treasury of the United States. Such district accounting and disbursing officers accountable for public monies may entrust monies to other bonded officers for the purpose of having them make disbursements as his agent, and the officer to whom the monies are entrusted, as well as the officer who entrusts the monies to him, shall be held pecuniarily responsible therefor to the United States. All diplomatic, consular or Foreign Service officers on duty within the area covered by such district offices may be required to render accounts of their disbursements to the officer in charge to such district office to be included in his accounts. Said district accounting and disbursing Officers and their agents shall be bonded respectively to the United States for the faithful performance of their duties in such penal amounts as the President may require.

"Provided further, That the Secretary of State is authorized to appoint such district accounting and disbursing officers and their assistants in the same manner as clerks in diplomatic missions and consular offices are appointed

"Section 3622 of the Revised Statutes of the United States (U. S. C., title 31, sec. 496), and any other existing statutes, in so far as they conflict with this section are hereby amended.

FEES APPLICABLE TO SALARIES AND EXPENSES

"SEC. 36. That all fees and other official monies received by diplomatic missions or consular offices or by the district accounting and disbursing offices provided in section 35 above, may be transmitted through the Department of State for deposit in the United States Treasury, or may be used in payment of salaries, allowances, and current expenses of said missions and offices, under such rules and regulations as the President may from time to time prescribe; the residue,

if any, to be transmitted through the Department of State for deposit in the United States Treasury. Section 3617 of the Revised Statutes of the United States (U S. C., title 31, sec 484) is hereby amended

DATE ACT TAKES EFFECT

"SEC. 37. That this Act shall take effect on July 1, 1931."

Approved, February 23, 1931.

APPENDIX D

FULL POWER TO NEGOTIATE AND SIGN TREATIES

President of the United States of America
TO ALL TO WHOM THESE PRESENTS SHALL COME,
GREETING:

KNOW YE, That reposing special trust and confidence in the integrity, prudence and ability of —— (Name)—— —— (Title)—— of the United States of America to —————, I have invested him with full and all manner of power and authority for and in the name of the United States of America to meet and confer with any person or persons duly authorized by the Government of —————, being invested with like power and authority, and with him or them, to negotiate, conclude and sign a Convention —————, the same to be transmitted to the President of the United States of America for his ratification, subject to the advice and consent thereto of the Senate of the United States of America.

IN TESTIMONY WHEREOF, I have caused the Seal of the United States of America to be hereunto affixed.

DONE at the city of Washington this ————— day
of (month), in the year
- of our Lord one thou-
sand nine hundred
and thirty- ——,
and of the
Independence
of the United
States of America
the one hundred and
fifty- ——.

By the President:

Secretary of State.

APPENDIX E

FULL POWER FOR DELEGATES TO CONFERENCE

President of the United States of America
TO ALL TO WHOM THESE PRESENTS SHALL COME,
GREETING:

KNOW YE, That reposing special trust and confidence in the integrity, prudence and ability of _____, _____, and _____, Delegates of the United States of America to the _____,

which is to be held in _____, —(Date)—, I have invested them jointly and severally with full and all manner of power and authority for and in the name of the United States of America to meet and confer with any persons duly authorized by the Governments of the States represented at the said International Conference, being invested with like power and authority, and with them to negotiate, conclude and sign any treaties, conventions, or other acts adopted by the said International Conference, the same to be transmitted to the President of the United States of America for his ratification, by and with the advice and consent of the Senate thereof.

IN TESTIMONY WHEREOF, I have caused the Seal of the United States of America to be hereunto affixed.

DONE at the city of Washington this _____ day
of (month), in the year .
of our Lord one thousand nine hundred
and thirty- _____,
and of the
Independence
of the United
States of America
the one hundred and
fifty- _____.

By the President :

Secretary of State.

APPENDIX F

LETTER OF CREDENCE

President of the United States of America

To

_____,
_____.

Great and Good Friend:

The Congress of the United States of America, being desirous to testify the good will and friendship of the Government of the United States for that of _____, at its last session provided for an Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Government of Your _____.

In pursuance of this provision, it is my agreeable duty to inform Your _____ that I have made choice of _____, a distinguished citizen of the United States to reside near the Government of Your _____ in the quality of Envoy Extraordinary and Minister Plenipotentiary of the United States of America. He is well informed of the relative interests of the two countries and of the sincere desire of this Government to cultivate to the fullest extent the friendship which has so long subsisted between them. My knowledge of his high character and ability gives me entire confidence that he will constantly endeavor to advance the interest and prosperity of both Governments and so render himself acceptable to Your _____.

I therefore request Your _____ to receive him favourably and to give full credence to what he shall say on the part of the United States, and to the assurances which I have charged him to convey to you of the best wishes of this Government for the prosperity of _____.

May God have Your _____ in His wise Keeping.

Your Good Friend,

By the President:

Secretary of State.

Washington, _____.

APPENDIX G

CONSULAR COMMISSION

DEPARTMENT OF STATE,

Washington, _____.

Excellency :

I have the honor to inform Your Excellency that Mr. _____, a citizen of the State of _____, has been appointed Consul of the United States of America at _____. [in place of _____ who formerly held that office.]

In communicating the above information to Your Excellency and enclosing his commission in that capacity, I have the honor to request that you will be pleased to grant to Mr. _____ the formal exequatur of the Government of His Majesty _____, recognizing him in his consular capacity and to ask that upon its issuance, you will be pleased to direct that information thereof be communicated to him, together with the enclosed commission, at his post of duty.

I avail myself of the occasion to offer to Your Excellency the assurance of my most distinguished consideration.

Secretary of State
of the United States of America.

Enclosure :

Commission of _____ as Consul of the United States
of America at _____.

To His Excellency
the Minister of Foreign Affairs,

_____.

A SELECTED LIST OF BOOKS CONTAINING MATERIAL PERTAINING TO DIPLOMATIC AND CONSULAR PRACTICE

- Adair, E R, *The Extraterritoriality of Ambassadors in the 16th and 17th Centuries*. (London, 1929).
- Adams, Charles Francis, *Memoirs of John Q. Adams*. 12 volumes. (Philadelphia, 1874-77).
- Adams, Henry, *Life of John Randolph*. (New York, 1910).
- Adams, John, *John Adams Works*. 10 volumes. Charles Francis Adams, ed (Boston, 1851-65).
- Adams, John Quincy, *Memoirs*. 12 volumes. (Philadelphia, 1874-77)
- Angell, James Burrill, *Reminiscences* (New York, 1912)
- Ashburner, Walter, *The Rhodian Sea Law*. (Oxford, 1909).
- Basdevant, S *Les fonctionnaires internationaux*. (Paris, 1931).
- Bemis, Samuel Flagg, ed, *The American Secretaries of State and Their Diplomacy* 10 volumes. (New York, 1927-29)
- Bénézet, Jean Etienne, *Etude théorique sur les immunités diplomatiques*. (Toulouse, 1901).
- Bernard, M., *Four Lectures on Subjects Connected with Diplomacy*. (London, 1868).
- Bernstorff, Count Von, *My Three Years in America*. (New York, 1920).
- Bigelow, John, *Retrospections of an Active Life*. (New York, 1909).
- Bigelow, Poultney, *Prussian Memories, 1864-1914*. (New York, 1915).
- Bluntschli, J C., *Le droit international codifié*, 4th ed. (Paris, 1884).
- Bodin, Albert, *Des immunités consulaires dans les pays de chrétienté*. (Bordeaux, 1897).
- Borchard, E. M., *The Diplomatic Protection of Citizens Abroad*. (New York, 1915)
- Borel, F., *De l'origine et des fonctions des consuls*. (Leipzig, 1831).
- Bouffanaïs, Pierre, *Les consuls en temps de guerres et de troubles* (Paris, 1933).
- Bousquet, Georges, *Agents diplomatiques et consulaires*. (Paris, 1883).

Bowen, Herbert W., *Recollections Diplomatic and Undiplomatic*. (New York, 1926).

Brunus, Conradus, *De Legationibus* (Mainz, 1548).

Butler, Sir Geoffrey, and Maccoby, Simon, *The Development of International Law*. (London, 1928).

Callières, F. de, *De la manière de négocier avec les souverains*. (Paris, 1716).

Calvo, Charles, *Le droit international théorique et pratique*. 4th edition. 6 volumes. (Paris, 1896).

Cambon, Jules, *Le diplomate*. (Paris, 1926).

Candiotti, A. M., *Historia de la institucion consular en la antigüedad y en la edad media*. (Buenos Aires, 1926).

de Charney, Rousseau, *L'idée du parfait ambassadeur*. L. Delavaud, ed. (Paris, 1912).

Child, Maude Parker, *The Social Side of Diplomatic Life*. (Indianapolis, 1925).

Child, Richard Washburn, *A Diplomat Looks at Europe*. (New York, 1925).

Clerc, M., *Les Métèques athéniens*. (Paris, 1893).

Collier, William M., *At the Court of His Catholic Majesty*. (Chicago, 1912).

de Commynes, Philippe, *Memoires de Philippe de Commynes*. 2 volumes. (Paris, 1901-03).

Consular Regulations of the United States. (Washington, 1896-1935).

Cortissoz, Royal, *The Life of Whitelaw Reid*. 2 volumes. (New York, 1921).

Corwin, E. S., *The President's Control of Foreign Relations*. (Princeton, 1917).

Coulon, Henri, *Des agents diplomatiques*. (Paris, 1889).

Cox, W. V., and Northrup, H. M., *Life of Samuel S. Cox*. (Syracuse, 1899).

Cresson, W. P., *Francis Dana*. (New York, 1930).

Curtis, George W., *The Correspondence of John Lathrop Motley*. 2 volumes. (New York, 1889).

Cussy, Ferdinand de, *Dictionnaire du diplomate et du consul*. (Leipzig, 1846).

, *Règlements consulaires des principaux états maritimes de l'Europe et de l'Amérique*. (Paris et Leipzig, 1851).

Department of State Publication No 703, "The Immigration Work of the Department of State and Its Consular Officers".

- Dickinson, Edwin de Witt, *Cases on the Law of Nations*: (New York, 1929).
- Dietrich, Victor, *De l'inviolabilité et de l'exemption de juridiction des agents diplomatiques et consulaires en pays de chrétienté*. (Paris, 1896).
- Draper, William F., *Recollections of a Varied Career*. (New York, 1908).
- Dumba, Constantin, *Memoirs of a Diplomat*. (Boston, 1932).
- Dumont, Jean, *Corps universel diplomatique du droit des gens*. 8 volumes. (Amsterdam, 1726-31).
- Dunn, F. S., *The Protection of Nationals*. (Baltimore, 1932).
- Egan, Maurice Francis, *Recollections of a Happy Life*. (New York, 1924).
- Egle, William H., ed., *Andrew Gregg Curtin: His Life and Services*. (Philadelphia, 1895).
- Fauchille, Paul, *Traité de droit international public*. 2 volumes. (Paris, 1921-26).
- Fay, Bernard, *Franklin, the Apostle of Modern Times*. (Boston, 1929).
- Feller, A. H., and Hudson, M. O., *Diplomatic and Consular Laws and Regulations*. 2 volumes. (Washington, 1932).
- Fenwick, Charles G., *International Law*. (New York, 1934).
- Flournoy, R. W., and Hudson, M. O., *Nationality Laws*. (New York, 1929).
- Field, D. D., *Outlines of an International Code*. (New York, 1876).
- Fiore, Pasquale, *International Law Codified*. (New York, 1918).
- Fischer, Louis, *The Soviet in World Affairs*. (London, 1930).
- Fisher, H. A. L., *James Bryce*. 2 volumes. (New York, 1927).
- Foster, John W., *A Century of American Diplomacy*. (New York, 1900).
- , *Diplomatic Memoirs*. 2 volumes. (Boston and New York, 1909).
- , *The Practice of Diplomacy*. (New York, 1906).
- Foulke, William Dudley, *Fighting the Spoilsmen*. (New York and London, 1916).
- Francis, David R., *Russia from the American Embassy*. (New York, 1921).
- Fraser, Mrs. Hugh, *Reminiscences of a Diplomatist's Wife*. (New York, 1912).
- , *From an Eastern Embassy*. (Philadelphia, 1920).
- Fynn, Robert, *British Consuls Abroad*. (London, 1846).

- Garden, G. F. de, *Traité complet de diplomatie*. 3 volumes. (Paris, 1833).
- Garner, J. W., *International Law and the World War*. (London, 1920).
- Genet, Raoul, *Traité de diplomatie et de droit diplomatique*. 3 volumes. (Paris, 1931).
- Gentili, Alberico, *De Legationibus, Classics of International Law*. J. B. Scott, ed. (New York, 1924).
- Gerard, James W., *My Four Years in Germany* (New York, 1917).
———, *Face to Face with Kaiserism*. (New York, 1918).
- Gibson, Hugh, *A Journal from Our American Legation in Belgium*. (New York, 1917).
- Grotius, Hugo, *De Jure Belli ac Pacis*. (Oxford, 1925).
- Gwynn, Stephen, *The Letters and Friendships of Sir Cecil Spring Rice* 2 volumes (Boston and New York, 1929).
- Hale, Edward Everett, *Franklin in France*. 2 volumes. (Boston, 1888).
- Hall, W. E., *A Treatise on International Law*. 4th ed. (Oxford, 1895).
- Halleck, H. W., *International Law*. 2 volumes. (London, 1908).
- Hardy, Arthur Sherburne, *Things Remembered*. (New York, 1923).
- Harris, Townsend, *The Complete Journal of Townsend Harris*. (New York, 1930).
- Harrison, Thomas Skelton, *The Homely Diary of a Diplomat in the East*. (New York, 1917).
- Hearn, Walter Risley, *Some Recollections*. (London, 1923).
- Heatly, D. P., *Diplomacy and the Study of International Relations*. (Oxford, 1919).
- Hendrick, Burton J., *Life and Letters of Walter H. Page*. 3 volumes. (New York, 1922-25).
- Herbette, L., *Nos diplomates et notre diplomatie*. (Paris, 1874).
- Hershey, Amos, *Essentials of International Public Law and Organization*. (New York, 1927).
- , *Diplomatic Agents and Immunities*. (Washington, 1919).
- Heyking, Baron Alphonse de, *La Théorie et la pratique des services consulaires*. (Paris, 1928).
- Hill, David Jayne, *History of Diplomacy in the Development of Europe*. 3 volumes. (New York, 1906-14).
- Hinckley, Frank C., *American Consular Jurisdiction in the Orient*. (Washington, 1906).
- Hegermann-Lindenchrone, L. de, *In the Courts of Memory*. (New York, 1912).

- Hegermanin-Lindencrone, L. de, *The Sunny Side of Diplomatic Life*. (New York, 1914).
- von Holtzendorff, Franz, *Handbuch des Völkerrechts*. 4 volumes (Leipzig, 1885-89).
- Horton, George, *Recollections Grave and Gay*. (Indianapolis, 1927).
- Hotman, Jean, *De la charge et dignité de l'ambassadeur*. 2nd edition. (Paris, 1604).
- Hudson, Manley O., *Cases and Other Material on International Law*. (St Paul, 1929).
- Hudson, Manley O. and Feller, A. H., *Diplomatic and Consular Laws and Regulations*. (Washington, 1932).
- Hunt, Gaillard, *The American Passport*. (Washington, 1898).
- , *The Department of State of the United States*. (New Haven, 1914).
- , *The History of the Seal of the United States*. (Washington, 1909).
- Huntley, Theodore H., *John W. Davis*. (New York, 1924).
- Hurst, Carlton Bailey, *Arms above the Door*. (New York, 1932).
- Hurst, Sir Cecil, "Les immunités diplomatiques", *Academie de Droit International, Recueil des Cours*. (Paris, 1927).
- Hyde, C. C., *International Law Chiefly as Interpreted and Applied by the United States*. 2 volumes. (Boston, 1922).
- Instructions to Diplomatic Officers of the United States*. (Washington, 1927).
- Intimacies of Court and Society by the Widow of an American Diplomat*. (New York, 1912)
- Jay, John, *Correspondence and Public Papers*. H. P. Johnstone, ed. 4 volumes. (New York, 1890-1893).
- Johnson, Robert Underwood, *Remembered Yesterdays*. (Boston, 1923).
- Johnson, Willis Fletcher, *George Harvey*. (Boston and New York, 1929).
- Jones, C. L., *The Consular Service of the United States*. (Philadelphia, 1906).
- Josephus, Flavius, *Antiquities of the Jews*. William Whiston, tr. (New York, 1888).
- Jusserand, J. J., *The School for Ambassadors and Other Essays*. (New York, 1925).
- , *What Me Befell*. (Boston and New York, 1933).
- Krauske, Otto, *Die Entwicklung der Stadigen Diplomatie*. (Leipzig, 1885).

- Lane-Poole, S., *Life of Stratford Canning*. (London, 1888).
- de Lapradelle, A., and Niboyet, J. P., *Repertoire de droit international*. (Paris, 1895).
- Laurent, Francois, *Histoire du droit des gens et des relations internationales*. 3 volumes. (Gand, 1850).
- Lawrence's Wheaton, *Elements of International Law*. (London, 1864).
- Lay, Tracy, *The Foreign Service of the United States*. (New York, 1928).
- Leach, Paul. R., *That Man Dawes* (Chicago, 1930).
- Lehr, Ernest, *Manuel théorique et pratique des agents diplomatiques et consulaires français et étrangers*. (Paris, 1888).
- Leroy, Paul, *Des consulats, des légations et des ambassades*. (Paris, 1876).
- Lichnowsky, Prince, *Heading for the Abyss*. (New York, 1928).
- Lockhart, R. H. Bruce, *British Agent*. (New York and London, 1933).
- Machiavel, N., *Œuvres complètes, légations et missions*. Volumes VII-IX. (Paris, 1823-1826).
- Martens, Charles de, *Guide diplomatique*. (Leipzig, 1866).
- Martin, E. S., *Life of Joseph H. Choate*. (New York, 1920).
- Marye, George T., *Nearing the End in Imperial Russia*. (Philadelphia, 1929).
- Mathews, J. M., *American Foreign Relations*. (New York, 1928).
- Maulde, R. A. M. de la Clavière, *La diplomatie au temps de Machiavel*. 3 volumes. (Paris, 1892).
- Meisel, August Heinrich, *Cours de style diplomatique*. (Paris, 1826).
- Mende, Elsie Porter, *An American Soldier and Diplomat*. (New York, 1927).
- Meriwether, Lee, *The War Diary of a Diplomat*. (New York, 1919).
- Michael, William H., *History of the Department of State of the United States*. (Washington, 1901).
- Milnitz, Alex de, *Manuel des consuls*. 2 volumes. (London, 1837).
- Monnet, R., *Manuel diplomatique et consulaire*. (Paris, 1899).
- Moore, John Bassett, *A Digest of International Law*. 8 volumes. (Washington, 1906).
- Morgenthau, Henry, *All in a Life-time*. (New York, 1922).
- _____, *Ambassador Morgenthau's Story*. (New York, 1918).
- Morton, Charles, *Les privilèges et les immunités diplomatiques*. (Lausanne, 1927).
- Mott, Colonel T. Bentley, Myron T. Herrick, *Friend of France*. (New York, 1929).

- Mowat, R. B., *Diplomatic Relations between Great Britain and the United States*. (New York and London, 1925).
- Mowrer, Paul Scott, *Our Foreign Affairs*. (New York, 1924).
- Murray, Eustace, C. G., *Droits et devoirs des envoyés diplomatiques*. (London, 1853).
- National Civil Service Reform League, *Report on the Foreign Service*. (New York, 1919).
- Neckludoff, A., *Diplomatic Reminiscences*. (New York, 1920).
- Nevill, Ralph, *Unconventional Memories*. (New York, 1923).
- Nevins, Allan, *Henry White*. (New York, 1930).
- Nicolson, Harold, *Portrait of a Diplomatist*. (New York, 1930).
- , *Dwight Morrow*. (New York, 1935).
- Noradounghian, G., *Recueil d'actes internationaux de l'Empire Ottoman*. (Paris, 1897).
- Nys, Ernest, *Les origines du droit international*. (Bruxelles, 1894).
- Odier, Pierre-Gabriel, *Des privilèges et immunités des agents diplomatiques en pays de chrétienté*. (Paris, 1890).
- Oppenheim, L., *International Law*. (New York, 1912).
- O'Shaughnessy, Edith, *Diplomatic Days*. (New York, 1917).
- , *A Diplomat's Wife in Mexico*. (New York and London, 1916).
- Paléologue, Maurice, *An Ambassador's Memoirs*. 3 volumes. (New York, no date).
- Pardessus, J. M., *Collections des lois maritimes antérieures au XVIII^e siècle*. (Paris, 1828-45).
- Patau, Paul, *De la situation comparée des agents diplomatiques et consulaires*. (Paris, 1910).
- Pawiniski, A., *Zur Entstehungs geschichte des Consulats in den Communen Nord-und Mittel-Italiens*. (Gottingen, 1867).
- Pearson, Drew, and Brown, Constantine, *The American Diplomatic Game*. (New York, 1935).
- Pessoa, Eipistacio, *Projecto de codigo de directo internacional publico*. (Rio de Janeiro, 1911).
- Phillimore, Sir Robert, *Commentaries on International Law*. (London, 1879-89).
- Phillipson, Coleman, *The International Law and Custom of Ancient Greece and Rome*. (London, 1911).
- Ponsonby, Arthur, *Democracy and Diplomacy*. (London, 1915).
- Poole, Dewitt C., *Conduct of Foreign Relations under Modern Democratic Conditions*. (Yale University Press, 1924).

- Pradier-Fodéré, P., *Cours de droit diplomatique*. 2 volumes. (Paris, 1899).
- , *Traité du droit international public*. 8 volumes. (Paris, 1885-1906).
- Puente, Julius I., *The Foreign Consul*. (Chicago, 1926).
- Rayneval, J. M. Gérard de, *Institutions du droit de la nature et des gens* 2 volumes. (Paris, 1832).
- Redslob, R., *Histoire des grands principes du droit des gens*. (Paris, 1923).
- Reynaud, J. E., *Des ambassadeurs chez les romains, des consulats*. (Paris, 1874).
- Richardson, Norval, *My Diplomatic Education*. (New York, 1929).
- Rogers, B. B., *The Archarnians of Aristophanes*. (London, 1910).
- Russell, Phillips, *Benjamin Franklin*. (London, 1927).
- Rymer, Thomas, *Foedera, Conventiones, Literae*. 20 volumes. (London, 1725-35).
- Sadoul, Jacques, *La conditions des agents consulaires et diplomatiques au point de vue fiscal*. (Paris, 1918).
- Salles, George, *Institution des consulats*. (Paris, 1898).
- Sands, William Franklin, *Undiplomatic Memories*. (New York, 1930).
- Satow, Sir Ernest, *A Guide to Diplomatic Practice* 2 volumes. (London, 1922).
- , *A Guide to Diplomatic Practice*, 3rd edition. (London, 1932).
- Sá Valle, Raymundo, *Des agents diplomatiques*. (Geneva, 1875).
- Schoen, Freiherr von, *The Memoirs of an Ambassador*. (London, 1922).
- Schuyler, Eugene, *American Diplomacy*. (New York, 1901).
- , *Essays and Memoirs*. (New York, 1901).
- Schwerdtfeger, Rudolph, *Die völkerrechtliche Sonderstellung der diplomatischen Agenten*. (Wurzburg, 1914).
- Scott, James Brown, *Cases on International Law*. 2nd edition. (St. Paul, 1922).
- Secrétan, J., *Les immunités diplomatiques des représentants des états membres et des agents de la Société des Nations* (Geneva, 1929).
- Seldes, George, *You Can't Print That*. (New York, 1929).
- Seward, Frederick W., *Reminiscences of a War-Time Statesman and Diplomat*. (New York and London, 1916).
- Seymour, Charles, *The Intimate Papers of Colonel House*. 4 volumes. (New York, 1926).

- Snellman, G., *De Interpretibus Romanorum*. (Leipzig, 1920).
- Stewart, Irwin, *Consular Privileges and Immunities*. (New York, 1926).
- Stowell, É. C., *Le Consul*. (Paris, 1909).
- , *Consular Cases and Opinions*. (Washington, 1909).
- Strong, Theron G., *Joseph H. Choate*. (New York, 1917).
- Stuart, Graham H., *Latin America and the United States*. (New York, 1928).
- , *The International City of Tangier*. (Stanford University Press, 1931).
- Szilassy, J. de, *Traité pratique de diplomatie moderne*. (Paris, 1928).
- Taft, W. H., *Our Chief Magistrate and His Powers*. (New York, 1916).
- Telfer, Captain J. Buchan, *The Strange Career of the Chevalier D'Eon De Beaumont*. (London, 1885).
- Thayer, William Roscoe, *Life and Letters of John Hay*. 2 volumes. (New York, 1915).
- The Life of Cassius Marcus Clay* (Cincinnati, 1886).
- Tissot, Carlos, *Les proxénies grecques et leur analogie avec les consuls modernes* (Dijon, 1863).
- Treat, Payson J., *Diplomatic Relations between the United States and Japan, 1853-1895*. (Stanford University Press, 1932).
- Twiss, Travers, ed., *The Black Book of the Admiralty*. 4 volumes. (London, 1871).
- Valfrey, Jules, *La diplomatie française au 17^{ième} siècle*. (Paris, 1881).
- Van Dyne, Frederick, *Our Foreign Service*. (Rochester, New York, 1909).
- Vattel, E. de, *The Law of Nations, Classics of International Law*. J. B. Scott, ed. (Washington, 1916).
- Vidal, Saura G., *Tratado de derecho diplomatico*. (Madrid, 1925).
- Waddington, Mary King, *Letters of a Diplomat's Wife*. (New York, 1917).
- Walker, T. A., *A History of the Law of Nations*. (Cambridge, 1899).
- Wanka, J., *Das Konsularwesen und die diplomatischen Missionen*. (Prague, 1906).
- Warden, *On the Origin, Nature, Progress, and Influence of Consular Establishments*. (Paris, 1813).
- Washburne, Elihu B., *Recollections of a Minister to France*. (New York, 1899).

- Whartott, Francis, *A Digest of the International Law of the United States*. 3 volumes. (Washington, 1887).
- Wheaton, Henry, *History of the Law of Nations* (New York, 1845)
- White, Andrew D., *The Autobiography of Andrew D. White*. 2 volumes (New York, 1905).
- Whitlock, Brand, *Belgium* 2 volumes. (New York, 1920).
- Wicquefort, A. de, *L'ambassadeur et ses fonctions*. (London, 1840).
- Willson, Beckles, *America's Ambassadors to England*. (London, 1928).
- , *America's Ambassadors to France*. (London, 1928).
- , *Friendly Relations*. (Boston, 1934).
- Wilson, Henry Lane, *Diplomatic Episodes in Mexico, Belgium, and Chile*. (New York, 1927).
- Wolff, Sir Henry Drummond, *Rambling Recollections*. 2 volumes. (London, 1909).
- Worms, *Histoire commerciale de la Lique hanséatique*. (Paris, 1864).
- Wright, Quincy, *The Control of American Foreign Relations*. (New York, 1922).
- Wright R. F., *Medieval Internationalism*. (London, 1930).
- Wynne, Cyril, *Department of State Publications*. (Washington, 1935).
- Yardley, Herbert O., *The American Black Chamber*. (Indianapolis, 1931).
- Young, George, *Diplomacy Old and New*. (New York, 1921).

INDEX

A

- Accounts, Bureau of organization of, 63, duties of, 158 ff.
- Acharnians*. comedy of Aristophanes, 4
- Achilles, Vice Consul Theodore aids stranded Americans, 381
- Adair, E. R. cited, 11
- Adams, Charles Francis: Minister to Great Britain, 240 ff.
- Adams, Henry: cited, 171, 230
- Adams, John. diplomatic career of, 163; on appointment of consuls, 167; presentation of letters of credence to King George III of England by, 228; on Franklin, 448
- Adams, John Quincy: responsible for Monroe Doctrine, 81; Minister to Russia, 223, Secretary of State, 231; on presentations at Russian Court, 252; refusal of, to accept gift of British Court on termination of his mission, 280 ff
- Adams, Vice Consul William W.. comments upon immigration from Germany, 426
- Adee, Alvey A., 66, 68, 84, 85, 125; on wearing of court dress, 279
- Admission of aliens into the United States, 135
- Aeschynus: Athenian representative in Macedonia, 4
- Agents, consular, 343
- Agreement*: use of, 260 ff.; instances of refusals of, 208 ff.
- Aix-la-Chapelle regulations governing precedence of diplomats drawn up at, in 1818, 17
- Alaska. purchase of, by William Seward, 81
- Albrecht, Consul Charles H. regarding registration in Siam, 401
- Alcibiades: Spartan proxenus at Athens, 25
- Alexandria. Venetian consul at, 32
- Algeciras, Conference of President Theodore Roosevelt and, 42
- Allen, Percy F. Chief Clerk, 116
- Allowances, inadequate, 468-470
- Alternat: use of principle of, in signing treaties, 18, 265
- Amalfi: Tables of, 27, trade of, with Levant, 30; consul sent from, to Naples, 32
- Ambassadorial suite: question of immunity of, 11 ff.; exemption of, from customs duties, 290 ff.; treatment of non-official personnel of, 302
- Ambassadors: not subject to local jurisdiction, 4, 6; Roman treatment of, 6; right of freedom of worship for, 13, 294; precedence of, established by Congress of Vienna, 17, appointment of, by the United States, 45 ff.; rank first employed by United States in 1893, 144, 175, 203 ff.; reciprocal exchange of, by the powers, 204 ff.; accredited to several states at the same time, 215, more than one ambassador at the same post, 215; relation between Home Government and, 236 ff.; functions of, 240 ff., instructions to American envoys, 242 ff.; lack of cooperation between Foreign Office and envoy abroad, 244 ff.; relations of, with the press, 246; protection of nationals by, 248; services rendered by, to nationals, 251 ff.; assistance by, to students, 253 ff.; improvement of commercial relations by, 254; relations of, with government to which accredited, 258 ff.; interference by, in internal affairs, 262 ff.; protection of citizens of third powers by, 267 ff., instances of varied life of, 271; social obligations of, 272 ff.; uniforms of American, 277 ff.; American diplomats

- prohibited from accepting honors or decorations from foreign governments, 280 ff.; privileges and immunities of, 285 ff.; passage of, through third states in time of war, 289; safe conduct for, 289, exemption of, from customs duties, 290; exemption of, from taxes, 293 ff.; ceremonial privileges of, 295; assassination of, 299 ff., punishment for offenses against, 300 ff.; immunity of non-official personnel of, 302, inviolability of correspondence of, 302 ff.; protection against defamation of reputation of, 306; immunity of residence of, 307; immunity of, from jurisdiction, 313 ff.; exempt of, from giving testimony, 319; waiving of diplomatic immunity by, 320; termination of mission of, 321, resignation of, 321 ff.; recall of, by home government, 326 ff., by request of foreign government, 328 ff., dismissal of, 331 ff.; termination of mission of, by war, 333, position of neutral envoys in belligerent states, 334; effect of French Revolution on, 335 ff., procedure of, on quitting post, 337
- Ambassador's duties of, 273 ff.
- American Black Chamber, 246
- American Government Building in Paris, 447-462
- American State Papers, Foreign Relations*, 136
- American University of Beirut, 97
- Angell, James B.: Minister to China, 176; minister to Turkey, 234
- Annual Register*, 136
- Appointments, unwise diplomatic, 466-468
- Arbitration treaties: withdrawal of, from United States Senate by President Taft, 544 ff.
- Archives: inviolability of consular, 433-435; inviolability of diplomatic, 312 ff
- Argentina: first American ambassador to, 47, 203; selling of wheat by diplomatic representatives of, in Europe, 297; customs regulations for consuls of, 439
- Aristophanes on Greek embassies, 4
- Armenian citizenship problems, 414
- Armour, Norman: rise of, in American Foreign Service, 47, aid extended to the author by, 253, service of, in Russia, 308 ff.
- Arms and Munitions Control, Office of, 160 ff.
- Assassination instances of, 299
- Assault upon consuls, 431-432
- Asylum: practice of by ancients, 5, right of, 12 ff., use of, in Latin America, 309; convention on, signed at Havana, 1928, 309 ff.; use of, in Near East and Far East, 311 ff.
- Atcherson, Lucile: foreign service officer, 214
- Athens: representation of, to Persia and Thrace, 4, recognition of inviolability of envoys by, 4, veterans' services in, 393-394, passport frauds in, 412; immigration frauds in, 426
- Attachés, commercial: formerly answered trade inquiries, 356
- Austria: appointment of consuls by, in Europe and the Levant, 34; first diplomatic representative from United States sent to, 1838, 166
- Automobiles: orders for in Venezuela, 353
- Aviation: handling of problems concerning, 148

B

- Baiz, Jacob: refusal of United States to recognize appointment of, as Honduran charge to the United States, 301
- Baiz: *in re*, cited, 441
- Ball, Alice M.: Chief of Special Documents Section, Division of Research and Publications, 136
- Bancroft, George: Minister to Germany, 205
- Barbarossa: seizure of envoys of, at Constantinople, 8
- Barbary States: first American consuls in, 169
- Barbeyrac, J.: cited, 5
- Barbuits Case: cited, 441

- Barclay, Thomas consul to France, 167
- Barcelona: Laws of, 29, trade of, with Levant, 30; Laws of, cited, 31; obtains United States Chamber of Commerce, 352
- Barlow, Joel. Minister to France, 449
- Barnes, Charles M. Chief of Treaty Division, 150
- Barron, Bryton. Chief of Publishing Section, Division of Research and Publications, 136
- Bayard, Thomas F.: Secretary of State, cited, 207
- Beaulac, Willard L. Assistant Chief, Division of Latin American Affairs, 98
- Beaumont, Chevalier d'Eon de. career of, 212 ff
- Belgium: first American ambassador to, 47, 203, restricts consular imports, 439
- Belin, Ferdinand Lamont: Secretary of American Embassy in Paris, 317
- Berlin: United States trade protection in, 359; protection of Americans in, 375-377; United States Consulate General in, refuses visa, 420
- Bernstorff, Count von. German Ambassador to United States, 333 ff.
- Bevan, Consul Thomas. settles trade dispute in Brazil, 360
- Bigelow, John: cited, 251, 253; moves Paris legation, 450
- Bigelow, Poultney: cited, 247
- Bishops as ambassadors, 7
- Bismarck, Chancellor. attitude of, toward foreign wives of German diplomats, 274
- Black Book of the Admiralty*, 28 ff
- Blackmer: refuses consular subpoena, 391
- Blaine, James G.: father of Pan-Americanism, 81; case of illegal extradition of Cuban from the United States, by Spanish authorities, 256 ff; on exequaturs, 346-347
- Blake, Maxwell: diplomatic agent in Morocco, aid extended to the author by, 254, protects American trade in Tangier, 358-359
- Blair, Henry W.: Minister to China, 210 ff.
- Bliss, Tasker H.: at Paris Peace Conference, 217
- Blount, James S.: Special Commissioner to Hawaiian Islands, 204
- Bluntschli: codification of diplomatic law by, 20, codification of consular law by, 39; cited, 208
- Boal, Pierre de L. Chief of Division of Western European Affairs, 92
- Boccaccio. Florentine diplomat, 9
- Boggs, S. W.: geographer, 138
- Borchard, E. M.: cited, 51, 248
- Bordeaux establishment of Russian consulate in, 34
- Boue Sœurs in trade dispute with United States, 361
- Bouffanaix, Pierre: cited, 445
- Bowen, Herbert W. Minister to Persia, 206, Minister to Venezuela, 249, 327 ff.
- Bowers, Ambassador Claude intervenes in behalf of Americans, 378-379
- Bowman, Consul General Thomas: tries to protect students in Mexico, 379
- Boyce, Consul Richard F. administers estate of deceased American, 387-388
- Boy-Ed, Captain German naval attaché in Washington, 289, 316
- Brauner, John J. Chief of Law Section, Division of Research and Publications, 136
- Brazil: consular instructions of, 350; consuls settle trade disputes in, 360; grants free auto licenses to consuls, 439
- Breckinridge, Clifton R.: Minister to Russia, 279
- Brent, Daniel Chief Clerk, 115
- Brest-Litovsk Treaty, 264
- British Foreign and State Papers*, 136
- Brown, James: Minister to France, 450
- Brown, Neill, 172
- Broy, Consul Charles C.: takes deposition in admiralty case, 392
- Brunus, Conradus: cited, 10
- Bryan, William J.: reading of telegrams by, 77; applies spoils system to diplomatic service, 181

- Bryce, James · cited, 52, 80
 Buchanan, James · doctrine of expatriation, 81
 Bucknell, Howard, Jr. · 141
 Budapest: extortion case in, 427
 Bullitt, William C.: mission to Russia, 1933, 48
 Bulwer, Henry: British Ambassador to Spain, 315
 Burlingame, Anson · Minister to China, 209; 437
 Butler, Attorney General · defines consular immunity, 430
 Byington, Homer M · Chief of Division of Foreign Service Personnel, 152; consular inspector, 345
 Bynkershoek on diplomatic immunity, 11, 286; on wives accompanying ambassadors, 11, on asylum, 12
 Byrd, Richard E., 92
 Byzantine Empire · relations with Papacy, 7; diplomatic etiquette of, 8

C

- Cable Act, 405
 Cadiz · establishment of Russian Consulate in, 34
 Caesar patron of Chios, 25
 Cairo · Venetian consul at, 32
 Calhoun, John C.: refusal to serve abroad, 166
 Callias: Athenian ambassador to Sparta, 24
 Callières, M. de · cited, 236, 291 ff, 295, 457-458
 Calvo, Charles · cited, 319
 Cambon, Jules · cited, 236, 271; French Ambassador to Germany, 333
 Canada: exchange of ministers with United States, 20, 203; non-fortification of American frontier, 57; restricts consular imports, 439
 Candiotti: cited, 30
 Canning, George · British Foreign Minister, on conducting of negotiations with foreign diplomats, 260
 Canning, Stratford British Minister to United States, 260
 Canova, Leon J. · Chief of Division of Mexican Affairs, 100
 Capmany, Don Antonio de · cited, 31
 Carbone v. Carbone, 288
 Caribbean area: application of Monroe Doctrine in, 43; American recognition policy toward, 49
 Carmichael, William · American chargé d'affaires in Spain, 165, 167
 Carr, Wilbur J · Director of Consular Service, 66; Assistant Secretary of State, 85; duties, 86; Chief Clerk, 116; member, Foreign Service Personnel Board, 189; status of Foreign Service personnel, 195 ff, relates incident of trade protection, 360; relates case of mutiny, 369; tells of disappearance of merchant, 385
 Carter, Clarence E.: editor of *Territorial Papers*, 134, 136
 Carter, John R.: Ambassador to Argentina, 325
 Cass, General Lewis: Minister to France, 325
 Castle, William R., Jr.: Undersecretary of State, 84, Chief of Division of Western European Affairs, 92
 Catacazy · Russian Minister to United States, recall requested by American Government, 330
 Catholic Church · contribution of, to diplomacy, 7
 Cato patron of Cyprus and Cappadocia, 25
 Census · jurisdiction of State Department over, 61
 Ceremonial communications: 261 ff
 Ceremonial Officer · creation of, 144
 Certification of invoices, 260-262
 Chamberlain, Consul Culver B. · assaulted by Japanese, 432
 Chambers of commerce established abroad, 352
 Chancellery: need of permanent, 450-451
 Charles, Garfield · cited, 139
 Charney, Rousseau de · cited, 274 ff
 Chateaubriand: comments on consuls, 36
 Chaumonet, Jules · claim of, to diplomatic immunity denied, 302
 Chew, Robert S.: Chief Clerk, 115
 Child, Maude Parker · cited, 273 ff.
 Child, Richard Washburn · Ambassador to Italy, service at Genoa Con-

- ference, 267; rôle played by wife of, 273 ff.
- Chile. first American ambassador to, 47, 203
- China. early diplomatic representation of, 3; immigration from, to United States, 43; American legation raised to rank of Embassy, 203
- Chinese. refuse exequaturs, 347
- Choate, Joseph H.. Ambassador to 'Great Britain, 249; made an honorary bencher of Middle Temple, 283; cited, 279; on need for homes for ambassadors, 449-450
- Christie, Emerson: Chief of Translating Bureau, 143
- Cicero on diplomatic inviolability, 6; right of embassy, 19; use of patronats, 25, patron of Syracuse, 25, law of jettison, 27
- Cimon. Spartan proxenus at Athens, 25
- Citizenship, 402-405
- Citizenship, Bureau of. establishment of, 65
- Clark, J. Reuben: Undersecretary of State, 82
- Classification of consuls, 341-342
- Classification of diplomats. by Congress of Vienna, 17, 18, at Aix-la-Chapelle, 17
- Clay, Cassius M.: Minister to Russia, 327
- Clay, J. Randolph: Minister to Peru, 268
- Clerks, consular. position of, 344, 471-472
- Cleveland, Grover. and the Monroe Doctrine, 43; improvement brought about by, in consular and diplomatic service, 174 ff., raised certain legations to rank of embassy, 206; dismissal of Lord Sackville-West, British Minister to United States, by, 332
- Colbert: establishment of consular regulations in France by, 36
- Cochran, H. Merle. First Secretary at Paris Embassy, 456-457
- Coffey, Titian J.: cited, 223
- Collier, William Miller: Minister to Spain, 226, 235
- Cologne. invoices certified in, 361
- Commerce and Labor, Department of: creation of, 64
- Commercial Relations of the United States*. published by State Department, 1856 to 1903, 61, improvement of, by diplomat, 254
- Commission, consular, 345
- Committee for Reciprocity Information, 114
- Committee of Jurists: codification of international law by, 20 ff.
- Communication: inviolability of, 302 ff., status in time of war, 304; practice of the United States, 304
- Commynes, P. de. opinion of diplomats in sixteenth century, 19
- Comptroller General: rules on expenses of seamen, 369-370
- Consolato del Mare*, 28 ff.
- Constantine VII: etiquette manual, *De Ceremoniis*, 8
- Constantinople. seizure of envoys of Barbarossa in, 8; European envoys to, 10; Venetian consul general at, 33, certification of invoices in, 361
- Consular Bureau: organization of, 62; reorganization of, under Secretary Fish, 63, abolition of, 69
- Consular Commercial Office. establishment of, 64, duties of, 111
- Consular immunities: need for, and recognition of, 39, 40, 429-446
- Consular rights. obtained by treaty, 35
- Consuls. development of term, 26; early jurisdiction of, 27; jurisdiction of, in Levant trade, 30; need for immunities of, 39, classification and appointment of, 339-349; functions of, in behalf of commerce and navigation, 350-371, services rendered to nationals by, 372-399; citizenship, passport, visa services of, 400-428, privileges and immunities of, 429-446
- Continental Congress. Committee of Secret Correspondence, 58
- Contonis Brothers. guilty of immigration frauds, 426
- Conventions, consular, 339-341; see also Treaties
- Cooke, Charles Lee: Ceremonial Officer, 144

Coolidge, President: recognition policy of, 49; approves Rogers Bill, May 24, 1924, 185, coordinates diplomatic and consular work, 342

Coolidge, T. Jefferson. Minister to France, 234

Coordination Agreement of August 5, 1933 conclusion of, between Departments of State and Commerce, 112

Coordination and Review, Office of establishment of, 68, 125

Correspondence inviolability of, 302 ff

Correspondence Bureau. creation of, 68

Cotton, Joseph P.: Undersecretary of State, 82, 83

Coulter, Eliot B.: Assistant Chief of Visa Division, 132

Counselor to the State Department, 82

Couriers: inviolability of, 302 ff.

Cowdray Affair, 275

Cox, Samuel S.: Minister to Turkey, 202

Coyle, Vice Consul John J.: takes testimony, 392

Crusades influence of on diplomacy, 9; development of consular régime during, 27

Cuba first American ambassador to, 47; recognition of Grau San Martin refused by United States, 49; Hay-Quesada Treaty, 54

Cueva, de Spanish Ambassador, flight from Venice, 11

Current Information, Division of: establishment of, 66, 139

Curry, J. L. M. Minister to Spain, 176

Curtin, Andrew Gregg: Minister to Russia, 221, 223, honored by Russian Czar, 283

Curzon, Marquis: cited, 41

Cushing, Caleb Minister to China, 218 ff., signed treaty with China, 265; opinions of, 56, 201, 202 ff., 321, 430

Customs privileges, diplomatic, 290; countries granting, 291; practice of the United States, 292

Customs regulations violated, 395-396, consular exemptions from, 439-440

D

Damascus: Venetian consul at, 32

Damiani, Simon: consular agent at Bastia, 343

Daniels, Josephus: Ambassador to Mexico, 211

Danish West Indies: purchased by United States, 54

Dante. Florentine diplomat, 9

Danzig: uses Polish consular service, 340

Darius: slaying of envoys of, by Greeks, 4

Davis, John W.: Ambassador to Great Britain, 241; honored by Great Britain, 283; on expense of being an ambassador, 324, 469

Davis, Nathaniel P.: serves as consular inspector, 345

Davis, Norman H.: presidential agent at disarmament conference, 48, 204; Undersecretary of State, 82

Dawes, Charles G. Ambassador to Great Britain, 217, 229; comment on social side of diplomacy, 276; on wearing of court costume, 280

Dawson, Thomas C.: Chief of Division of Latin American Affairs, 99

Dawson, William. Chief Instructor, Foreign Service School, 154

Deane, Silas: diplomatic career of, 164

Death of seamen, 369

Decorations, presents, honors: prohibition against American officers receiving, without approval by Congress, 280 ff.

Delano and Aldrich: architects for Paris Embassy, 451-452

Demosthenes: proxenus for Thebes at Athens, 25

Denby, Charles: Minister to China, 222

Dennis, Lawrence: resignation of, from Foreign Service, 190

Department of State of the United States, 135

Desertion of seamen, 367

De Thou. French Ambassador at The Hague, 16

Diplomacy: democratic attitude towards, 463-464; secret, 465
 Diplomatic agent: accrediting of, 18
 Diplomatic Bureau organization of, 62; reorganization of, under Secretary Fish, 62-63; abolition of, 69
 Diplomatic corps relations of envoy with, 264
Diplomatic Correspondence, 133
 Diplomatic day, 78
 Diplomatic law: attempts at codification of, 20 ff.; need for codification of, 22
Diplomatic List, 135, 146, 296
 Dismissal of ambassador, 331 ff.
 Discharge of seamen, 367-368
 Disputes of seamen, 366
 Djalal, Ghaffar Khan: Iranian Minister to United States, 317
 Dominican Republic executive agreement with, for administration of customs by United States, 56
 Dragoman forerunner of, 7
 Draper, William F.: Ambassador to Italy, 234, 238, honored by King of Italy, 283
Droit de chapelle, 294 ff.
 Du Bois, Coert summarizes cases of aid and protection, 373-374
 Du Bois, John T. Minister to Colombia, 326
 Dulles, Allen W.: Chief of Division of Near Eastern Affairs, 96
 Dulles, John W. resignation of, from Foreign Service, 325
 Dumba, Constantin. Austro-Hungarian Ambassador to United States, 289, 315 ff.; recall of, requested by United States, 331
 Dumont, Frederick T. F.: Chief of Consular Commercial Office, 111; obtains order for coal, 353
 Dunn, James Clement: Chief of Division of Western European Affairs, 93; ceremonial officer to White House, 144, Chief of Division of Protocol and Conferences, 145
 Dutch regulations governing consuls, 37
 Dwyer, Consul Dudley G.: increases American trade with Venezuela, 353

E

Eberhardt, Charles C.: member, Foreign Service Personnel Board, 189
 Economic Adviser, Office of establishment, 64, 109
 Edge, Walter E.: Ambassador to France, 293; proposes new embassy in Paris, 451, as Ambassador, lays cornerstone, 452
 Edwards, Congressman: introduces resolution requesting information on appointments to Foreign Service, February 16, 1927, 189 ff.
 Egan, Maurice Francis: Minister to Denmark, cited, 199, 237, 264, 275; resignation as Minister not accepted, 322
 Egypt: early diplomatic intercourse of, 3, trade of, with Mediterranean cities, 30, Florentine consul in, 33
 Efficiency, Board of: establishment of, 72
 Einstein, Albert: has difficulty in obtaining visa, 420
 Ellis, Consul O. G.: handles extradition case, 406-407
 Embassies: need of permanent, 449-450
 Embassy liquor, 292
 England: violation of Imperial embassy in, 13, trade of, with Prussia and Hanseatic towns, 33, with Scandinavian countries, 33, first consul by royal authority in, 33
 Envoy extraordinary, *see* Ambassadors
 Erhardt, John G.: Chief of Consular Commercial Office, 111, trade reports of, 355
 Estates of Americans dying abroad, 385-387
 Etiquette, Byzantine, 8
 European Information Center at Paris Embassy, 457
 Eustis, Ambassador James B.: criticizes Paris Embassy, 451
 "Excellency": use of title, 295
 Exchange Bill of March 26, 1934, 195
 Executive Agreements application of, to aviation, 148

- Executive Committee, Foreign Service Personnel Board, 189
- Executive Committee on Commercial Policy, 113
- Exequaturs: nature and form of, 346; refusal of, 346-347; revocation of, 348-349; withdrawn from United States consuls in Newcastle, 357
- Expatriation formulation of doctrine of, by James Buchanan, 81; examples of, 406-407
- Extradition duties of diplomatist in connection with, 254; handling of cases involving, by Legal Adviser, 107; case of Samuel Insull, 254 ff.; illegal extradition of a Cuban from the United States by Spanish authorities, 256
- Extraterritorial rights of consuls, 445-446
- F
- Fauchille, Paul: cited, 31, 198, 287, 303, 429
- Fees, consular, 391-393
- Feis, Herbert: Economic Adviser, 109
- Feller, A. H.: cited, 339
- Ferdinand: establishment of permanent embassies by, at other courts, 10; grants Genoese right of having consuls at Seville, 32
- Ferris, Consul Cornelius: tells cost of taking testimony, 392
- Field, Pattie: foreign service officer, 214
- Field, D. D.: codification of consular law by, 39
- Fiore, P.: codification of diplomatic law by, 20; on consular law, 39
- Fish, Hamilton: reorganization of State Department under, 62 ff.; cited, 207
- Fisher, Consul Raymond: discusses problem of seamen, 370; describes quota control in operation, 418
- Flag consular display of, 435-436; insults to, 436-437
- Fletcher, Henry P.: Ambassador to Chile, 77; comment on remark of Charles G. Dawes, 276 ff.
- Florence: diplomats of in thirteenth and fourteenth centuries, 9; permanent embassy of Duke of Milan to, 9; Machiavelli as Ambassador to France, 14; consul of, in Egypt, 33, in England, 33
- Folsom, George: Minister to The Netherlands, 172
- Foote, Walter A.: Assistant Chief, Division of Current Information, 141
- Foreign Commerce, Bureau of, 64, 108
- Foreign Consular Officers in the United States*, 135
- Foreign Intelligence, Division of, 66
- Foreign legations, care of, by American diplomats during World War, 269 ff.
- Foreign Office: relation between diplomatic envoy and, 237 ff
- Foreign Relations of the United States*, 133, 136
- Foreign Service Administration, Division of, creation of, 69
- Foreign Service Buildings Office, 70, 155 ff.
- Foreign Service List*, 135
- Foreign Service of the United States: placed on civil service basis, 47
- Foreign Service Officers' Training School, 70, 153 ff., 189
- Foreign Service Personnel Board, 70, 151 ff., 188 ff., 193
- Foreign Trade Adviser, Office of: establishment of, 64, 108
- Forsythe, Secretary of State: on passports, 407; asks opinion, 430; on taxation of consuls, 437
- Foster, John W.: cited, 79, 80, 144, 164, 205; Minister to Russia, 235; cited, 249; as Minister to Mexico, cited, 268, 319, 322; ships body, 388
- France: reception of first Turkish Ambassador in, 1720, 14; treaty of capitulations with Turkey, 35; Marine Ordinance of 1681, 36; first consul from United States, 1780, 37; regulations governing consular establishments in, 36, 37; recognition of, by United States, 1793, 49; alliance of, with United States, 1778, 58; objects to American customs investigations, 361; issues passports, 407; requires presentation of passports, 415; fixes

- customs regulations for consuls, 440;
American envoys to, 447-449
- Francis I. organization of French diplomatic service by, 10; treatment of Embassy of, in Venice, 13, treaty of capitulations with Turkey made by, 35
- Francis, David R.: Ambassador to Russia, 207, cited, 243, address of, to Russian people, 245, interference of, in internal affairs of Russia, 264; recommends recognition of Provisional Russian Government, 335 ff.; withdrawn from Russia, 336
- Franklin, Benjamin. Committee of Secret Correspondence, 58; diplomatic career of, 162; on appointment of consuls, 167; at court of Louis XVI, 218, honor bestowed upon, by French king, 283; services in France, 447-448
- Fraser, Consul General Robert: solves whereabouts case, 383
- Frauds, passport, 412-414
- Freedom of worship recognition of ambassadorial, 13
- Funeral arrangements made by consul, 388-389
- G
- Gallatin, Albert: Minister to France, 449
- Gamarra, Don Esteban de. Spanish Ambassador at The Hague, 16
- Garden, de, G. L.: cited, 248
- Garfield, Henry A.: cited, 177
- Garfield, James A. President, assassination of, 320
- Geist, Consul Raymond: protects Consolidated Oil in Berlin, 359, intervenes in behalf of Americans, 375-377
- Genêt, Citizen. French representative, received by President Washington, 49; United States requests recall of, 330
- Genet, Raoul. cited, 287, 292
- Genoa trade of, with Levant, 30; creation of *consules maritimi* by, 32; consuls of, at Seville, 32; conference of, 267
- Gentilis: cited, 10, 11; on embassies, 18 ff.; cited, 198, 286
- "Gentleman's Agreement", 56; abrogation of, 263
- Geoffrey of Vinsauf. on inviolability of diplomats, 8
- Gerard, James W.: nominated to Mexico, 211, Ambassador to Germany, 228, assumed charge of various belligerent interests in Berlin during World War, 270; delayed in departing from Berlin, 334, farewell audience of, with German Chancellor, 337
- Gericke, Martha L.: Librarian, 136
- Germany consular regulations of, 37; requires deposit of ship's papers, 362; treaty of commerce and consular rights with United States, 364-365, 375, 386, 438, violates rights of Americans, 375-377
- Gibson, Hugh. cited, 187, 334 ff., at London Naval Conference, 217, 267; service of, at international conferences, 267; assault on, in Cuba, 298; Ambassador to Brazil, 324
- Giffen, Morrison B.: Chief of Research Section, Division of Research and Publications, 136
- Gilbert, Prentiss B. American Consul General at Geneva, reporting on League of Nations Affairs, 94, reports Ibershoff case, 380
- Goding, Consul General F. W.: obtains million-dollar contract, 353
- Goldschmidt, Consul Louis: insulted at La Guayra, 431
- Good offices: exercise and employment of, 268 ff.
- Goschen, Sir Edward. British Ambassador to Germany, 333
- Gowen, Consul Franklin. protects American trade in London, 359; helps trace kidnapped children, 385
- Grady, Henry F.: Chief of Division of Trade Agreements, 114
- Graecus: cession of Auvergne by, 7
- Grant, Ulysses S. and the Monroe Doctrine, 43; fails to send American diplomatic representatives to Vatican, 199
- Great Britain. consular regulations of,

- 37; refusal of, to accept amendments of United States Senate to treaties, 55; withdraws exequaturs of American consuls, 357; prohibits importations of American stamps, 359, limits use of passports, 407, exempts income of consuls, 438; fixes customs regulations for consuls, 440; relinquishes capitulation, 446
- Greece: early consular practice of, 23 ff.; extradition of Samuel Insull from, 254 ff.; veterans' service in, 394
- Green, Joseph C.: Chief of Office of Arms and Munitions Control, 161
- Greenhow, Robert. librarian, 135
- Grew, Joseph C.: Ambassador to Japan, 83; Undersecretary, 189; Acting Chief, Division of Western European Affairs, 92; member, Foreign Service Personnel Board, 189, Ambassador to Turkey, 190, signed American Treaty of Lausanne, 265; service of, at Paris Peace Conference, 267, at Lausanne Conferences, 265; protects auto trade with Switzerland, 357-358
- Grey, Sir Edward: British Foreign Secretary, 259
- Grotius. on diplomatic immunity, 11; cited, 12, 286
- Guadalupe, Hidalgo. signature of Treaty of, by Nicholas Trist, 265
- Guayaquil: certification of invoices in, 362
- Guébriant, Mareschale de. Ambassador to King of Poland, 212
- Guenther, Consul General Richard: served with subpoena, 443
- Guicciardini: Florentine diplomat, 9
- Guienne, Dukes of: privileges granted to Commune of Oléron by, 28
- Gunther, Franklin M.: Chief of Division of Mexican Affairs, 101
- Guyant, Consul Claude: requests registration of rifle team, 401
- H
- Hackworth, Green H.: Legal Adviser, 105
- Haggerty, Major. refused. consular exequatur, 347
- Hague, The: United States legation at, may issue passports, 411
- Hague Conference: American mission to, 48
- Hale, Consul Bernard F.: attempts to serve consular subpoena, 391
- Hall, W. E.: cited, 434
- Hamburg: consulate general at, 342, German port of entry, 355; levies tax on consulate, 439
- Hamilton, Alexander. cited, 52
- Hanna, Margaret: Chief of Correspondence Bureau, 68; Chief of Office of Coordination and Review, 125
- Hanna, Mathew: Chief of Division of Mexican Affairs, 101
- Hanseatic League: consuls of, 30
- Harding, Warren G. indiscretion of, at Washington Arms Conference, 44; inclusion of Senators by, to negotiate Washington Arms Agreements, 54; cited, 57; conduct of foreign affairs by, 75
- Hardy, Arthur Sherbourne: Minister to Greece, 253; cited, 261 ff.
- Harris, Townsend: reception accorded to, by Tykoon, on Harris Mission to Japan, 225; signed treaty with Japan, 265; uniform worn by, 277
- Harrison, Pat: United States Senator, introduces resolution requesting investigation of Foreign Service Personnel Board, December 17, 1927, 190
- Harrison, Richard: Consul in Spain, 167
- Harrison, Thomas Skelton. diplomatic agent to Egypt, 224
- Harvard Law School: codification of diplomatic law by, 21; code of consular procedure and practice, 39
- Harvey, Constance. foreign service officer, 214
- Harvey, George: Ambassador to Court of St James's, 45, 202; ridiculed for wearing court costume, 280; resignation of, because of expense, 325
- Haskell, Consul Lewis W.: protects American automobile trade, 357-358

- Havana Convention of 1928 provisions of, 21, 30, 208, 287, 290, 293, 301, 307, 318, 320, 336 ff., on consular agents, 345, 348; on inviolability of consular archives, 433-434
- Hay, John: open door policy of, 44, 81; on treaty-making power of Senate, 53; established Bureau of Trade Relations, 64, conduct of foreign affairs by, under Presidents McKinley and Roosevelt, 80; comment of, on Alvey A. Adee, 85, reform of consular service by, 178, inability of, to receive honor bestowed by French government, 283, warns Venezuela on consular protection, 431
- Hay-Quesada Treaty, 54
- Hearst press: opposition of, to World Court, 55
- Herrick, Myron T.: Ambassador to France, 208, 216, 238, 323; speech delivered by, contrary to American foreign policy, 239; assumed charge of various belligerent interests in Paris during World War, 270, performance of social obligations by, 276; honored by French and British governments, 282, purchases embassy in Paris, 450, favors centralized quarters, 451
- Heffter, A. W.: cited, 198
- Hengstler, Herbert C.: Chief of Division of Foreign Service Administration, 120
- Henry, Patrick: patriot, 164
- Henry VII: establishment of permanent embassies at other courts by, 10
- Herodotus on Greek consuls, 23
- Hershey, Amos: cited, 198, 318, 331
- Heyking, Baron Alphonse de: cited, 286; defines consular duties, 350
- Holland: establishment of Russian consulate in, 34
- Holland, Consul Philip: obtains large shoe order, 353
- Holy Roman Empire: representation of Pope in, 8
- Holy See: right of, to diplomatic representation, 199; resumption of diplomatic relations with Italy by, 200
- Hoover, Herbert and the Monroe Doctrine, 43, conversation of, with Premier Laval, 44, use of merit system of Foreign Service by, 47, good-will tour of Latin America by, 48, recognition policy of, 49; refused to accept resignation of career diplomats, 324
- Hopper, Consul George D. performs service for crank, 398-399
- Hornbeck, Stanley K.: Chief of Division of Far Eastern Affairs, 89
- Horton, George American Consul General, cited, 279, 362
- Hosmer, Consul Charles B. makes study of maritime functions of consuls, 370 (note)
- Hotman, Jean: his opinion of diplomats in sixteenth century, 9, cited, 11
- House, Edward M.: presidential agent to Europe, 48, 204, 215, at Paris Peace Conference, 217
- Howell, Williamson S.: First Secretary at Paris Embassy, 456
- Huddle, Consul General J. Klahr: on citizenship problems in Warsaw, 413
- Huddleston, Consul J. F.: cites citizenship case, 405
- Hudson, Manley O.: his code of consular procedure and practice, 39, 339
- Hughes, Charles E.: and limitation of armaments, 44, 81; creation of Consular Commercial Office by, 65, and Department of Peace, 72, conduct of foreign affairs by, 76, 80, on necessity of having capable men in the service, 237; use of American Black Chamber, 246, keeps ban on Karolyis, 421; on pay of diplomats, 468
- Hull, Cordell: tariff reciprocity policy of, 44, and reciprocal trade agreements, 57, 81, creation of Board of Appeals and Review by, 72, reduction of Foreign Service Personnel by, 195
- Humphreys, David: Minister resident in Portugal, 165, Commissioner Plenipotentiary to Algiers, 166
- Hunt, Gaillard: Chief of Passport Bureau, 65, Chief of Bureau of Manu-

with France, 168; minister to Austria, 1869, 221-222
 Jefferson, Thomas: presidential control of foreign affairs by, 44; appointed Secretary of State, 1790, 59; neutrality and recognition policies, 105; founder of State Department Library, 135; diplomatic career of, 163 ff.; cited, 202; complains of expense of special mission to Paris, 324, gives advice to consuls, 375; on status of consuls, 430; succeeds Franklin, 448
 Jerome, Paul: comments on *Consolato del Mare*, 29
 Jews: protected by American Consulate General in Berlin, 377; given visas to teach in the United States, 420
 Johnson, Andrew: attempted purchase of Danish West Indies, 54
 Johnson, Hallet: Chief of Division of Latin American Affairs, 99
 Johnson, Herschel V.: Chief of Division of Mexican Affairs, 101
 Johnson, Nelson T.: Chief of Division of Far Eastern Affairs, 89
 Johnson, Robert Underwood: Ambassador to Italy, 227, 244
 Jones, John Paul: special agent to Algiers, 204
 Jones, Russell: Minister to Belgium, 222
 Josephus, Flavius: cited, 3
 Julian: Bishop of Cos, papal representative to Emperor Marchian, 7
Jus gentium: assault on ambassador a violation of, 6
Jus naturale: use of, in antiquity, 7
 Jusserand, Jules: cited, 237
 Jusserand, Madame: position of in Washington, 275
 Justice Department, 61

K

Karolyi, Count and Countess: banned from United States, 421
 Keena, Leo J.: Consul General in Paris, 459
 Keiley, A. M.: nominated Minister to Italy, 209; nominated Minister to

Austria-Hungary, 210; judge on International Tribunal of Egypt, 210
 Kelley, Robert F.: Chief of Division of Eastern European Affairs, 102
 Kellogg, Frank B.: establishment of Treaty Division by, 70, and renunciation of war, 81; Secretary of State, 190, refusal of, to grant visa to Madame Alexandra Kollontay, 213; sued by Karolyis, 421
 Kettler, Baron von: Minister to China, assassination of, 299
 Key, David McK., 141
 King, William Rufus: takes oath in Cuba, 391
 Knox, Philander C.: reorganization of State Department by, 65; on display of flag, 436
 Kollontay, Alexandra: Ambadressess of Soviet Union to Mexico, 213; refusal of United States to permit passage of, to post, 288
 Koran: on inviolability of diplomats, 8
 Korea: treaty of, with United States, 48

L

Laigue, de: cited, 31
 Lane, Arthur Bliss: Chief of Division of Mexican Affairs, 101
 Language officers, 344-345
 Lansing, Robert: conduct of foreign affairs by, 76, 80; in France, 82; letter addressed by, to Congressman John Jacob Rogers on reorganization of service, 184 ff.; at Paris Peace Conference, 217
 Lansing-Ishii Agreement, 56
 Latchford, Stephen: expert on aviation matters, 148
 Lateran Treaties of 1929, 200
 Lathrop, Consul Lorin A.: relations with seamen, 368-369; on notarial services, 390
 Laurent, F.: cited, 5
 Lausanne: American Treaty of, signed by Joseph C. Grew, Minister to Switzerland, 265; German consular rights violated in, 437
 Laval, Pierre: conversations of, with Herbert Hoover, 44

- Lawrence, Abbott. Minister to Great Britain, 172
- Lay, Julius: cited from *Hearings* on Rogers Bill, 188
- Lay, Tracy: cited, 81
- League of Nations codification of diplomatic law by, 21, and consular law, 39, Monroe Doctrine and, 42, and the opium traffic, 91, matters pertaining to, under Division of Western European Affairs, 92, 94; immunity of officials of, 313, holds passport conferences, 416
- Legal Adviser, Office of: creation of, 64, 193; duties of, 105 ff
- Legal processes service of, 391
- Letter of credence, 218 ff. procedure in presentation of, in Near East and Far East, 224, procedure followed in European countries with, 226 ff.; procedure followed at Court of St. James's with, 229
- Levant. French and Italian trade with, 30 ff.; Austrian consuls in, 34
- Lex Rhodia. ancient maritime code, 27
- Library of Congress copyright jurisdiction of, 61
- Library of State Department, 135 ff.
- Limitation of armaments, 44, 81; Norman Davis and, 48, American participation in League's activities for, 94
- Lincoln, Abraham: and the Monroe Doctrine, 43; interest of, in foreign affairs, 80
- Lincoln, Robert T.. Minister to Great Britain, 176
- Lind, John: presidential agent to Mexico, 204
- Liquor. consular entry of, 440
- Lisola Imperial Ambassador in England, 13
- Liutprand. Bishop of Cremona, mission to Byzantium, 8
- Livesey, Frederic Assistant Economic Adviser, 109
- Livingston, Edward Secretary of State, 169 ff
- Livingston, Robert R Secretary for Foreign Affairs, 58, 165
- Local laws. violation of, 377-379
- Lockhart, R. H Bruce cited, 238
- Lodge, Henry Cabot: conflict of, with Woodrow Wilson, 42; corollary to Monroe Doctrine, 143, opposition of, to Treaty of Versailles, 53
- Lodi, Martin de. comments on precedence of envoys, 15
- Lome, Señor Dupuy de. Spanish Minister to United States, recall requested by American government, 330 ff
- London Consulate General: supervises consulates in Great Britain, 341; trade reports from, 355; trade invoices certified in, 361; reports regarding seamen, 371, reports welfare cases, 374, solves whereabouts case, 384; notarial services of, 390, postal services of, 397
- Loomis, Francis B Assistant Secretary of State, cited, 178, recalled from post as Minister to Venezuela, 327, Minister to Venezuela, 431
- Lost articles. consular services in locating, 395
- Louis XI. establishment of permanent embassies at other courts by, 10
- Louis XIV. action of, in dispute between French and Spanish Ambassadors in London, 1661, concerning precedence, 16
- Lowden Act of February 17, 1911; 155
- Lowell, James Russell. Minister to Great Britain, 253
- Lubeck: codes of, 29
- Luxburg, Count. German Minister to Argentina, dismissal of, 332 ff.
- Lyons, Lord. British Minister to United States, 241
- Lytton Report. copying of, 118

M

- MacEachran, Clinton E Chief Clerk, 116
- Machiavelli: Florentine diplomat, 9; comments of, on expenses of embassy, 14
- MacMurray, J. V. A. Chief of Division of Far Eastern Affairs, 89; Chief of Division of Near Eastern Affairs, 96, Minister to Estonia, Latvia, and Lithuania, 323

- MacVeagh, Lincoln: Minister to Greece, handling of extradition of Samuel Insull, 256
- McBride, Harry A. Chief of Consular Commercial Office, 111; Chief Clerk, 116
- McClintock, Vice Consul Robert: on prospective immigrants in Panama, 421
- McClure, Wallace: Assistant Chief of Treaty Division, 150
- McCombs, William F.: ambassadorship to France declined by, 323
- McDermott, Michael J.: Chief of Division of Current Information, 141
- McDowell, William Wallace: Minister to Irish Free State, 229
- McGurk, Joseph F.: Assistant Chief of Division of Latin American Affairs, 98
- McKinley, William, President: and the Spanish-American War, 50; his lack of interest in foreign affairs, 80; appointment of consuls under, 177
- McKinney, Luther: Minister to Colombia, 213
- McLane, Secretary Louis: reorganization of State Department by, 1833, 62
- McNeir, William: Chief Clerk, 116; Chief of Bureau of Accounts, 160
- Madrid: right of asylum in, 12
- Maime*, U.S.S.: in Havana harbor, 50
- Majorca: Americans jailed in, 377-379
- Malaga: attack on American consulate at, 435
- Malloy, W. A.: cited, 139, 143
- Managua: diplomatic post at, may issue passports, 411
- Mann, A. Dudley: special agent to Hungary, 215
- Manning, William R.: specialist in Latin American affairs, 100
- Manu, Laws of, 3
- Marchian, Emperor: relations with Papacy, 7
- Marcy, William L.: Secretary of State, on exchange of ministers of equal rank, 205; defines consular duties, 386; limits issuance of passports, 409
- Markets: consular activities concerning, 353; in Paris, 461
- Marriage: consular functions pertaining to, 394-395
- Marriages of American citizens abroad, 135
- Married women: citizenship of, 404-405
- Marriner, Theodore: Chief of Division of Western European Affairs, 92, Counselor at Paris Embassy, 455-456
- Marseilles trade of, with Levant, 30; consuls of, in Duchy of Savoy, 32, Consulate General at, has citizenship problems, 413-414
- Marselaer his opinion of diplomats in sixteenth century, 9
- Marshall, John and presidential control of foreign affairs, 44
- Martens, Charles de.: cited, 240
- Martens, F. de.: cited, 198
- Martin, John S.: translator, 142
- Marye, George T.: Ambassador to Russia, 207
- Maximilian his expedition to Mexico, 43; his attempt to secure recognition by United States, 212
- Medici permanent embassy of Duke of Milan to, 9
- Mehemet-Effendi first Turkish Ambassador to France, 1720, 14
- Meisel, August Heinrich: cited, 244
- Mendoza, Spanish Ambassador dismissal of, from England, 11
- Menecles Ambassador of Teos, 4
- Merchant Marine Act, 367
- Merchant vessels: papers of, 362
- Merrill, Keith: Chief of Foreign Service Buildings Office, 156
- Merry, Anthony: British Minister to United States, 230
- Messersmith, George: Minister to Austria, 47; protects Americans in Germany, 375-377, promoted to be Minister to Austria, 377
- Mexico Maximilian's expedition to, 43; American recognition policy towards, 49; war with United States over Texan independence, 50; Villa expedition into, by United States, 51, overthrow of Diaz régime in, 67; embargo on arms shipments to,

- 101; protection of Americans in, 379
 Middle West Utility Company: Samuel Insull's extradition in connection with, 254 ff.
 Milan: permanent embassy of Duke of, to Florence, 9
 Miles, Basil: Acting Chief, Division of Russian Affairs, 102
 Military service: duties of Ambassador in connection with enforced, 251; protection against, 373; seizure of nationals for, 396
 Miller, F. Max: cited, 3
 Miller, Hunter: Historical Adviser, 138, cited, 143
 Millspaugh, Arthur C.: Economic Adviser, 109
 Milnitz, A. de: cited, 27, 28, 31
 Minister resident: early use of, 10; classification of, at Aix-la-Chapelle, 1818, 17
 Mirbach, Count Wilhelm: German Ambassador to Russia, assassination of, 299
 Mississippi Valley Utility Corporation: Samuel Insull's extradition in connection with, 254 ff.
 Moffat, Jay Pierrepont: Chief of Division of Western European Affairs, 93; ceremonial officer to White House, 144
 Monceaux, P.: cited, 25
 Monroe Doctrine: presidential policy on, 42 ff.; John Quincy Adams and, 81
 Monroe, James: Minister to France, 449
 Montpellier: Venetian consul at, 32
 Moore, John Bassett, 371
 Moore, R. Walton: Assistant Secretary of State, 88
 Moreland, Vice Consul W. D.: attempts to protect effects of deceased American, 389
 Morgenthau, Henry: Ambassador to Turkey, 181; cited, 239
 Morris, Gouverneur: special agent of President Washington to London, 48, Minister to France, 166, 449; recalled at request of French government, 329
 Morris, Consul General Leland B.: repatriates destitute American in Greece, 380-381; puts an end to immigration frauds, 427
 Morris, Vice Consul Shiras: relates visa incident, 420-421; transferred to avoid arrest, 443
 Morrow, Dwight: Ambassador to Mexico, 202, at London Naval Conference, 217; conducted Mexican negotiations orally, 260; cordial relations established by, with Mexican government, 262
 Moses-Linthicum Act of February 23, 1931. 151, 192 ff.; cited, 344
 Motley, John Lothrop: Minister to Great Britain, 327
 Multilateral treaties: order followed in signature of, 18
 Munro, Dana G.: Chief, Division of Latin American Affairs, 99
 Murphy, James J., Jr.: Chief of Consular Commercial Office, 111
 Murphy, Robert D.: Consul General in Paris, 459
 Murray, Wallace: Chief, Division of Near Eastern Affairs, 96
- ### N
- Naples: Consul from Amalfi at, 32; cases of protection in, 373-374; veterans' service in, 393; passport frauds in, 412; has collection of false passports, 414; immigration control in, 418; heavy immigration work in, 427-428
 Napoleonic Code: diplomatic privileges based on, 286
 Narbonne: consul of city of, at Pisa, 32
 Nasmith, Consul Charles R.: relates citizenship case, 414
 National Board of Trade: advocates reform of consular service, 175
 National Munitions Control Board: composition of, 161
 Nationals: services rendered to, 372-399
 Naturalization, fraudulent, 406
 Navigation: consular duties in aid of, 363-364
 Nazis: violate rights of American citizens, 375-377

Negotiation of treaties by American diplomatic officers, 264 ff.
 Negotiations: character and form of, 259 ff
Ne impediatur legatio: doctrine of, 301
 Netherlands diplomatic documents of, 136; consular instructions of, 351; requires deposit of ship's papers, 362, fixes customs regulations for consuls, 440
 Neutrality: principles of, found in *Consolato del Mare*, 29, presidential proclamations concerning, 50, 161; Jefferson's policy on, 105
 Nevill, Ralph. quoted, 344
 Newcastle: United States consuls at, lose exequaturs, 357
 Nicaragua. refuses exequatur, 347
 Nicodemus: envoy of Duke of Milan to the Medici in Florence, 9
 Nicolson, Harold cited, 260
 Nippold, O. cited, 312
 Noailles, de: French Ambassador, recall of, from England, 11
 Non-quota immigrants, 423-424
 Northcliffe, Lord. British Ambassador to United States, 215
 Norton, Edward J. member, Foreign Service Personnel Board, 189; successfully promotes American trade, 353
 Notarials: consular services in, 390-391
 Noyes, General Edward F.. sacrifices fortune in service, 470

O

Oléron, Judgments of (or *Rôles d'*), 28
 Olney, Richard: Secretary of State, Montgomery Schuyler's comments on, 80, 81; maintains consular right of protection of nationals, 375
 Ontario: United States consul in, threatened with jail, 444
 Open door policy, 44, 81, 90
 Opium traffic: suppression of, 91
 Oppenheim, L. cited, 198, 319
 Orloff, Walter: case of, 376
 Otto I: proposed marriage of son of,

to daughter of Byzantine Emperor, 8
 Owen, Ruth Bryan Minister to Denmark, 213

P

Page, Walter Hines: Ambassador to Great Britain, 183, presentation of letters of credence to George V by, 228; threat of, to resign from post, 239, handling of *Dacia* case by, 241; lack of cooperation of Department with, 245; on services rendered to nationals, 251 ff; on wearing court costume, 280, resignation of, from post because of expense, 325
 Palestine: trade of, with Mediterranean cities, 30
 Palfrey, William: consul to France, 167
 Palma City. Americans jailed in, 377-379
 Panama trade inquiries in, 356; immigration from, 421
 Panama Canal, 51
 Pan-American Conference: codification of international law at Third, 20, convention on diplomatic officers adopted at Sixth, 21, 208, 287, 290, 293, 301, 307, 318; consular convention adopted at Sixth, 39
 Pan-American Union. Secretary of State on Governing Board of, 81; relations of, with Division of Latin American Affairs, 99
 Pan-Americanism: fathered by John G. Blaine, 81
 Papacy: contribution to diplomacy, 7; relations with Byzantine Empire, 7, early representation in Europe, 8, right of diplomatic representation of, 199
 Papen, Captain von: German military attaché in Washington, 289, 316
 Pardessus, J. M.: cited, 26, 27, 28
 Paris. Consulate General in, supervises consulates in France, 341, receives letter of appreciation, 357; invoices certified in, 361; obtains settlement for injured Americans, 382; takes care of insane, 382-383, serves as post-office, 397; receives silly re-

- quests, 598; the American government building in, 447-462, organization of embassy in, 453-458; organization of consulate general in, 458-460
- Parkèr, Dorothy · cited, 213
- Passport Bureau · organization of, 63
- Passport Control, Division of · establishment of, 65
- Passport Division: establishment of, 65, 127
- Passports · to whom issued, 407-409; by whom issued, 409-411; rules governing issuance of, 411; loss of, 411-412; renewal of, 412; fraudulent, 412-414; visa service, 414-415, verification of, 415-417; visa control of aliens, 417-421; visa control of undesirables, 461
- Passy · American legation at, 449
- Patronat: use of, under Rome, 25
- Pawinski, A · cited, 31
- Peiping American Embassy at, may issue passports, 411
- Pell, R. T. · Director, European Information Center, 457
- Perry, Commodore: mission to Japan, 48; special agent for treaty with Japan, 204, 265
- Persia · grants reparation for Imbrie murder, 432-433
- Persona non grata*: instances of, 209 ff.; as cause for recall, 328 ff.
- Personnel: treatment of, 471-472
- Peru first American ambassador to, 47, 203; American consular activities in, 354
- Pessoa, E. · codification of diplomatic law by, 20; cited, 208
- Peter III. · code drawn up for Valencia by, 29
- Peter IV · permits Barcelona to establish consular tribunal, 31
- Peter the Great · establishment of consulates in Europe by, 34
- Petrarch · Florentine diplomat, 9
- Phelan, Senator James · investigates charges against James M. Sullivan, 181
- Philip II. · refusal of, to permit freedom of worship to legation of Elizabeth, 13
- Philip IV · and dispute between French and Spanish Ambassadors in London, 1661, over precedence, 16
- Philip, Hoffman · Chief of Division of Near Eastern Affairs, 96
- Phillimore, Lord · codification of diplomatic law, 20; cited, 205
- Phillips, Robert J. · Chief of Foreign Service Buildings Office, 157
- Phillips, William · Chief of Division of Far Eastern Affairs, 65, 89; Undersecretary of State, 69, 83, 84, Assistant Secretary, 85, 92
- Phillipson, Coleman · cited, 4
- Pickerell, Consul George · settles trade dispute in Brazil, 360
- Pickering, Secretary of State, Timothy · on consular rights over estates of nationals dying abroad, 386
- Pillaut, M. · discusses consular conventions, 386
- Pinckney, Charles C. · nomination as American Minister refused by France, 209
- Pindar · Athenian proxenus at Thebes, 25
- Pindell, H. M. · nomination as Ambassador to Russia withdrawn, 182
- Pinkerton, Lowell C. · Director, Foreign Service Officers' Training School, 155
- Pisa: trade of, with Levant, 30 ff.; consul of Narbonne at, 32
- Pliny the Younger: patron of Betica, 25
- Poindexter, Miles: Ambassador to Peru, cited, 77; on proposing plebiscite in Tacna-Arica dispute, 245; protection of, by Peruvian government, 308
- Policy of the United States toward maritime commerce in war, 135
- Political refugees · extradition of, in ancient times, 3; asylum granted to, 309
- Polk, Frank L. · Undersecretary of State, 68; Acting Secretary of State, 82, on diplomatic salaries, 469
- Polk, James K. · Mexican war, 50
- Polutnik, Vice Consul E. V. · reports figures on passport visas, 419
- Ponsonby, Arthur · cited, 465 (note)

- Poole, DeWitt C : Chief of Division of Eastern European Affairs, 102; quoted, 466
- Popes Saint Leo the Great, representation of, at Court of Emperor Marchian, 7; representation of, at Court of Exarch of Ravenna, 7
- Porter, Horace. Ambassador to France, 234; honored by French government, 283, on need for permanent legations, 449; finds new quarters, 451
- Porto Rico cession of, to United States, 57
- Post-offices consulates serve as, 397
- Pradier-Fodéré, P.: cited, 198, 275, 287, 311, defines consular duties, 372
- Practor peregrinus* use of, in Rome, 26
- Precedence early questions of, 15 ff.; disputes concerning, 16, Louis XIV and dispute concerning, between French and Spanish Ambassadors in London, 1661, 16; regulated by Congress of Vienna, 1815, 17; supplementary regulations of Aix-la-Chapelle, 1818, concerning, 17
- Presentation of American women at European courts, 252 ff
- Presentation of letters of credence, 222 ff
- Presidency order of succession to, 60
- Press relations between diplomatic envoy and the, 246
- Press Releases*, 135
- Prevost, Stanhope. diplomatic agent in Peru, 172
- Priest, Consul refused exequatur, 347
- Privileges and immunities, diplomatic, 285 ff., in third states, 286; in third states in time of war, 289 ff.; safe conduct, 289; beginning of, 290; ceremonial, 295; those entitled to, contained in *Diplomatic List*, 296; violation of, in war-time, 304 ff.
- Protection: of citizens, 51; duties of diplomatic envoy in connection with, 248; problems in connection with individual rights, 250 ff.; of naturalized citizens, 251; of citizens of third powers, 267 ff., of seamen, 121, 365-366; of citizens, 374-380; of consuls, 431-434; of Americans, in Paris, 460-461
- Proxenoï: development of use of, in ancient Greece, 23 ff.; decline of use of, under Romans, 25
- Prussia: consular regulations issued by, 1796, 37
- Publications, Division of: establishment of, 66, 69
- Publications of State Department, List of, 135
- Q
- Quota Act of 1921, 68
- Quota: immigrant control by, 417-424
- R
- Radio: problems concerning, 147 ff.
- Rameses II: treaty with Hittites, 3
- Randall, Thomas. vice consul in Canton, China, 168
- Randolph, DeB.: Consular Inspector, 174
- Randolph, John: Minister to Russia, 171, 224
- Ratification of treaties. delay of United States Senate in, 54
- Ravenna: representation of archbishop of, at papal court, 7
- Rayneval, Baron Gerard de: cited, 259
- Reading, Lord British Ambassador to United States, 215
- Recall of ambassador: by home government, 326 ff.; by foreign government, 328 ff.; refusal of United States to accede to Brazilian request for, 329 ff.; practice followed by United States in requesting, 330 ff.
- Reception of foreign diplomats: procedure followed by United States in, 230
- Recognition: presidential power of, 49 ff.; Secretary of State's duty concerning, 78, Secretary Stimson's policy concerning, 81, position of Eastern European Division as result of non-recognition of Russia, 103, Jefferson's policy on, 105
- Redslob, R. cited, 22

- Reed, Edward L.: Chief of Division of Mexican Affairs, 101
- Register of the Department of State*, 135
- Registration: of nationals, 400-401; of births, 401-402
- Reid, Whitelaw: Ambassador to Great Britain, 279, 284; Minister to France, 449
- Reinsch, Paul. Minister to China, 183
- Relief of seamen, 369-371
- Renunciation of war: Frank B. Kellogg and, 81
- Reports, trade. made by consuls, 354-355
- Research and Publication, Division of: creation of, 69; duties of, 132 ff.
- Residence: inviolability of, 307 ff.; violation of British Embassy in Petrograd by Bolshevik government, 309, lack of, for American envoys, 449-450
- Resignation: as method of termination of mission, 321 ff., of career diplomats, 323; sometimes impelled by expense of office, 324 ff.
- Retirement fund for foreign service, 187 ff.
- Revolution: effect of, on status of diplomat, 335 ff.
- Rewards to seamen, 365
- Rhodes: Law of, 27, 29
- Richard III: recognition of Laurent Strozzi as consul in England by, 33
- Richardson, Norval: chargé d'affaires in Cuba, 208; Secretary of American Embassy in Rome, 275
- Ricker, Marilla: desire of, to be nominated Minister to Colombia, 213
- Ridiculous requests, 398-399
- Rights and privileges, diplomatic, 285 ff.; violation of in war-time, 304 ff.
- Ringwalt, Vice Consul Arthur R.: assaulted by Japanese, 431-432
- Rives, William C.: Minister to France, 172, rents chancellery quarters, 450
- Rivier, A. cited, 287
- Robbins, Warren D.: Chief of Division of Near Eastern Affairs, 96; Chief of Protocol, 147
- Robert College, 97
- Roberts, Edmund: special agent to Cochin China, Siam, and Muscat, 204
- Rockhill, William W.: Chief Clerk, 116; Ambassador to Turkey, 181; Commissioner to China, 204, 216
- Rogers, B. B.: cited, 4
- Rogers, John Jacob: criticizes Secretary Bryan's appointments to diplomatic service, 182; letter from Secretary Lansing regarding reorganization of service addressed to, 184 ff.
- Rogers Act of May 24, 1924, 69, 84, 120, 154, 185 ff.; Senate criticism of administration of, 191, amendment of, 193
- Romanus II: proposed marriage of daughter of, to son of Otto I, 8
- Rome: right of asylum in, 12; consulate general cares for insane veteran, 383, veterans' service in, 393
- Roosevelt, Franklin D.: and the Monroe Doctrine, 43; and use of merit system of Foreign Service, 47; use of special agents by, 48, recognition policy of, 49; and neutrality, 50; and the World Court, 55, and aid to Foreign Service during depression, 194; Assistant Secretary of the Navy, 211; appointment of Ruth Bryan Owen as Minister to Denmark by, 213; refused to accept resignation of career diplomats, 324
- Roosevelt, Nicholas: shows inadequacy of consular allowance, 471
- Roosevelt, Theodore: action of at Algeciras Conference, 42; and the Monroe Doctrine, 43; and aid in Panama revolt against Colombia, 51; his Executive Agreement concerning Dominican customs, 1905, 56; interest of, in conduct of foreign affairs, 80; and extension of career service, 177 ff.; settlement of religious question in Philippine Islands by, 199; work required from diplomatic representatives abroad by, 243; and recall of ambassadors, 327 ff.
- Root, Elihu: and World Court, 55; and establishment of Bureau of Citizenship, 65; and establishment of Division of Far Eastern Affairs, 65;

- and conduct of foreign affairs, 80;
and foundation of career service, 81,
178
- Root Mission to Russia, 1917, 102
- Root-Takahira Agreement, 56
- Rowe, Leo S.: Chief of Division of
Latin American Affairs, 99
- Ruddock, Albert: Acting Chief, Divi-
sion of Western European Affairs,
92
- Russia: classification of diplomatic rep-
resentatives by, 18, establishment of
consulates by, in Holland, Bordeaux,
and Cadiz, 34; recognized by United
States, 104; first American Minister
received by, 1809, 166; presentation
of letters of credence by American
Ministers to, 224, requires passports
and visas, 416
- Russian Affairs, Division of: estab-
lishment of, 67
- S
- Sackett, Frederic M.: Ambassador to
Germany, 293
- Sackville-West, Lord: British Min-
ister to United States, 263; dis-
missed by American government,
331 ff
- Safe conduct: use of, 289
- Salaries of clerks, 471
- Salic Law: inviolability of diplomats
under, 8
- Sallust: refers to law of jettison, 27
- Salmon, David A.: Chief of Division
of Communications and Records, 124
- San Martin, Grau: recognition of
refused by President Roosevelt,
49
- Sanitary regulations: consular duties
regarding, 364
- Santo Domingo, *see* Dominican Re-
public
- Saracens: laws of, not applicable to
merchants of Mediterranean cities,
30
- Satow, Sir Ernest: cited, 198, 274, 287,
319
- Savoy, Duchy of: consuls of Mar-
seilles in, 32
- Sayre, Francis B.: Assistant Secretary
of State, 88
- Scanlan, John J.: Assistant Chief of
Passport Division, 130
- Schacht, Hjalmar, 145
- Schaube, A.: cited, 32
- Schurman, Jacob Gould: Minister to
China, 202
- Schuyler, Eugene: cited, 222; recep-
tion granted to, by Khedive of
Egypt on presentation of letter of
credence, 225; his comment on wear-
ing of court costume in Russia, 279
- Schuyler, Montgomery: cited, 80, 81
- Seal of the United States: in custody
of Secretary of State, 79
- Seamen: rewards to, 365, protection
of, 121, 365-366; signing of, 366-367,
discharge of, 367-368; death of, 369;
relief of, 369-371
- Secretary of State succession of, to
the presidency, 60, precedence of,
over other members of the Presi-
dent's cabinet, 76; duties of, 77 ff;
relations of, with the press, 78; mem-
ber of Governing Board of Pan-
American Union, 81
- Seldes, George: cited, 247
- Services rendered to nationals, 372-399
- Seward, William: conduct of foreign
affairs by, 80, and the purchase of
Alaska, 81, on taxation of consuls,
438, on consular immunity, 442
- Sforza, Francesco: establishment of
first permanent embassy in Europe
by, 9
- Sharp, William Graves: Ambassador
to France, 208, 216, 238, 323
- Shaw, Howland: Chief of Division of
Near Eastern Affairs, 95, 96; cited,
96
- Shaw, Samuel: Consul in Canton,
China, 168
- Sherman, Secretary of State: on rev-
ocation of exequatur, 348
- Shipley, Ruth B.: Chief of Passport
Division, 130
- Shipping articles: deposit of, 362-363
- Short, William: American chargé
d'affaires in France, 165 ff
- Siam: registration of Americans in,
401

- Signing of, seamen, 366-367
- Simmons, John Farr: Chief of Visa Division, 132
- Skinner, Robert P.: Ambassador to Turkey, and the extradition of Samuel Insull from Turkey, 256
- Smith, Glenn A.: Head of Notarials Section, Division of Foreign Service Administration, 121
- Smith, Robert: Secretary of State, 258
- Smith, William Walker: Acting Chief, Division of Western European Affairs, 92
- Snobbishness, diplomatic, 465-466
- Social side of diplomacy: obligations of, 272 ff.
- Solicitor for Department of State, 64
- Soulé, Pierre: Minister to Madrid, 287 ff.
- Sousa, Florentin: has exequatur withdrawn, 348
- Southard, Addison: Chief of Consular Commercial Office, 111
- Southgate, Richard: Chief of Division of Protocol and Conferences, 145
- Spain: first American ambassador to, 47, 203; termination of war with United States, 57; imprisons American citizens, 378; Spanish confidence game, warning against, 398
- Sparta: recognition of inviolability of envoys by, 4
- Spaulding, E. Wilder: Assistant Chief, Division of Research and Publications, 136
- Special agents: use of, by American presidents, 48, William H. Taft's commission to the Vatican, 199, 200; power of President to appoint, 203 ff.
- Special missions: sending of, 216
- Spiridonova, Marie, 299
- Spring-Rice, Sir Cecil: British Ambassador to United States, 215, 258
- Stabler, J. H.: Chief of Division of Latin American Affairs, 99
- Stallo, John B.: Minister to Italy, 209
- Stamps: collected by consuls for Americans, 397-398
- State Department: historical development of, 58-72; organization and work of, 73-161; on revocation of exequaturs, 348, requires trade reports, 354; receives letters of appreciation, 358; notified when ship's papers are not deposited, 363; notified of epidemics, 364; receives requests for information, 401; fixes rules for citizenship abroad, 403; makes rules for passports, 408-410; has file of passport applications, 414; on representative character of consuls, 429-430; on taxation of consuls, 438
- Sterling, Frederick A.: Acting Chief, Division of Western European Affairs, 92
- Stevens, Wilfred: Translator, 142
- Stevenson, Andrew: Minister to Great Britain, 201
- Stewart, Dr. Irvin: on inviolability of consular archives, 433, 434
- Stewart, James B.: Chief Instructor, Foreign Service School, 154, relates passport incident, 411; checks visa frauds, 424
- Stimson, Frederic J.: cited, 77
- Stimson, Henry L.: policy on non-recognition, 81; appointment of Joseph P. Cotton as Undersecretary of State by, 82; at London Naval Conference, 217; permits Karolyis to enter United States, 421; receives apology from Japan, 432
- Stogsdall, Nellie B.: foreign service officer, 214
- Stone-Flood Bill of February 5, 1915: provisions of, 183
- Storer, Bellamy: Ambassador to Austria, recalled by Theodore Roosevelt, 328
- Stowell, Ellery C.: cited, 110; on packing of merchandise, 353
- Straus, Ambassador Jesse I.: appointed to Paris, 454; story concerning, 455
- Straus, Oscar S.: Minister to Turkey, 176
- Strozzi, Laurent: first consul by royal authority in England, 33
- Students: diplomatic assistance to, 253
- Subpoenas: served by consuls, 391
- Sullivan, James M.: Minister to Dominican Republic, 181
- Summers, Natalie: Chief of Archives

Section, in Historical Adviser's Office, 138
 Sweden: requires deposit of ship's papers, 362
 Sydney, United States consul at, 353;
 has difficulties with seamen, 370-371
 Syria: trade of, with Mediterranean cities, 30
 Szilassy, Baron J. de.: cited, 242, 260, 276

T

Tacna-Arica plebiscite, 77, 245; decision of United States in, 308
 Taft, Vice Consul Orray: relates passport incident, 413
 Taft, W. H.: cited, 51; withdrawal of arbitration treaties from Senate by, 54 ff.; extension of career service by, 179; President's Special Agent to Vatican, 199, 200; and the recall of Henry White, Ambassador to France, 326 ff.
 Talleyrand: defines consular activities, 350
 Tangier: receives consuls, 340, trade protection in, 358-359; insult to flag in, 436-437, mixed court in, 445; extra-territorial rights in, 445
 Tanis, Richard C.: Assistant Chief, Division of Mexican Affairs, 100
 Tariff, United States: causes trade dispute, 361
 Tarnowski, Count: Austro-Hungarian, 289
 Taxation: consular exemption from, 437-439
 Taxes: diplomatic exemption from, 293 ff
 Teheran: Vice Consul Imbrie murdered in, 432-433
 Téos asylum in, 5
 Termination of mission: means of bringing about, 321 ff., caused by war, 333 ff.; provisions of Havana Convention on diplomatic officers, 1928, regarding, 326 ff.
Territorial Papers, 133 ff.
 Testimony: consuls serve as commissioners to take, 392; taken in Paris, 461

Texas: recognition of independence of, by United States, 50
 Thayer, W. R.: cited, 80
 Thebes: war on Thessaly, 4
 Thomas, Henry L.: translator, 142
 Thompson, Consul Tyler: settles trade dispute in Marseilles, 360
 Thucydides: Athenian proxenus at Pharsalis, 25
 Thurston, Walter C.: Chief of Division of Latin American Affairs, 99
 Timagoras: Athenian ambassador to Persia, 5
 Tirana: American legation at, may issue passports, 411
 Totila: on inviolability of diplomats, 8
 Tourists: American, receive consular protection, 382, services to, 396-398, foreign, must have passports, 418-421
 Tower, Ambassador Charlemagne: on diplomatic salaries, 469
 Trade: promotion of, by consuls, 350; *U.S. Regulations* concerning, 351, reports concerning, 354-355; inquiries, 356; promotion services to, appreciated, 357; protection of, 357-359; disputes settled by consuls, 360
 Trade agreements: negotiation of reciprocal, by Secretary Hull, 57, a means of breaking down commercial barriers, 81; conclusion of, with Latin American countries, 100, Act of June 12, 1934, 112
 Trade Relations, Bureau of establishment of, 64, 108
 Travers-Twiss, Sir: cited, 28, 198
 Treaties: precedence in signing of, fixed by Congress of Vienna, 18, United States Senate ratification of, 53 ff.; for protection of trade, 358; consular, 385-386, Franco-Polish, of 1925, 386; to exempt consuls from taxation, 438
Treaties and Other International Acts of the United States, 139, 143
 Treaty: duties in connection with making, 149, part played by diplomatist in negotiating, 264 ff.; procedure in signing, 266
Treaty Information, 149
 Trescott, William H.: Minister to Chile, Peru, and Bolivia, 216; at-

- tempt of, to settle War of the Pacific, 245
 Trianon, Treaty of: signed for United States by Hugh Wallace, Ambassador to France, 265
 Trist, Nicholas P.: Chief Clerk, 115; commissioner to conclude peace with Mexico, 204; signed treaty of Guadalupe Hidalgo, 265
 Tuck, S. Pinkney: First Secretary at Paris Embassy, 457
 Tunis: Venetian Consul at, 32
 Turkey: reception accorded to first Turkish ambassador to France, 14; treaty of capitulations with France, 35; requires passports and visas, 416

U

- Ugolino: Consul of Narbonne at Pisa, 32
 Ulysses as ambassador, 4
 Unification of foreign service, 472-473
 Uniforms: wearing of, by American diplomats, 277 ff.
 Union of South Africa: exchange of ministers with United States, 20
 United States: adoption of regulations of Congress of Vienna by, 17, exchange of ministers by, with Canada, Irish Free State, and Union of South Africa, 20; first consul to France, 1780, 37; consular regulation by, 37; foreign affairs under Articles of Confederation, 41; Chinese immigration to, 43; administration of Dominican customs by, 56; alliance of, with France, 1778, 58; procedure followed by, in receiving foreign diplomats, 230 ff.; *Instructions to Diplomatic Officers*, 242 ff.; regulations of, governing diplomatic privileges and immunities, 286; signs convention on asylum at Havana, 1928, 310; revokes exequaturs, 347-349; requires trade reports, 354; issues passport instructions, 415-416
 United States Congress: attempts at control of diplomatic appointments by, 46, controls immigration, 417
 United States Senate: foreign relations committee of, 44; confirmation of foreign representatives of the United States by, 45; opposition of, to use of presidential (special) agents, 48; treaty-making power of, 51 ff.; and the World Court, 55
 Urban, Franciszek: guilty of passport frauds, 412, 427

V

- Van Alen, J. J.: appointed Minister to Italy, 202
 Van Buren, Martin: Minister to Great Britain, 201
 Van Dyke, Henry: Minister to Holland, 183, 306
 Van Dyne, Frederic: establishes consular trade information bureau, 352
 Vattel: cited, 15; on the right of legation, 19, 198; cited, 290, 298, 307
 Venezuela: warned to protect consuls, 431
 Venice: representation of, at Vatican, 8; diplomatic practice of, in fifteenth and sixteenth centuries, 9; regulations of, governing envoys, 10; treatment of ambassadorial suite by, 12, right of asylum in, 12, 13; Philippe de Comynes, French Ambassador to, 13; trade of, with Levant, 30 ff.; consuls of, at Montpellier, Tunis, Alexandria, Cairo, and Damascus, 32; consul general of, at Constantinople, 33
 Venizelos, E.: and the extradition of Samuel Insull from Greece, 255
 Vera Cruz: taking over of, by United States Navy, 211
 Vergennes, Count de: dealings of, with Benjamin Franklin, 163
 Verification of passports, 415
 Verona, Congress of, 36
 Verres III: cited, 6
 Veterans: consular services to, 393-394
 Vienna, Congress of, 17; classification of Ambassadors accepted by United States, 46
 Villa, Pancho: American expedition against, 51
 Violation of neutral diplomatic rights: instances of, during World War, 304 ff.

Visa . procedure in affixing, 414-415;
control of immigration by, 417-424
Visa Office establishment of, 68, 127,
130
Voltaire: meets Franklin, 448
Vopicka, Charles J . Minister to Bul-
garia, Rumania, and Serbia, 182
Vorkoff, Peter Soviet Minister to
Poland, assassination of, 300
Vorovsky, Mechilav: assassination of,
299 ff.

W

Wadsworth, George: aids American
to recover his wife, 379
Walker, James J . criticizes American
diplomats, 466
Wallace, Hugh C . Ambassador to
France, signed Treaty of Trianon
with Hungary, 265; gives library to
Paris Embassy, 453
War: consuls in times of, 444-445
War of the Pacific: American attempts
to settle, 216, 245
Warner, Margaret: foreign service of-
ficer, 214
Warsaw: difficulties of reporting trade
opportunities in, 355, veterans' ser-
vice in, 393; passport frauds in, 412;
citizenship cases in, 413, immigra-
tion control in, 418; immigration
frauds in, 427
Washburn, Charles A.: Minister to
Paraguay, 289
Washburne, Elihu B . Minister to
France, 222, 253, in charge of Ger-
man legation in Paris during Franco-
Prussian War, 269; comments on
wearing of court dress, 278, appre-
ciation of his work expressed by
German Government, 281; violation
of his residence, 307
Washington Arms Conference: Presi-
dent Harding's indiscretion at, 44;
activities of "American Black Cham-
ber" at, 246, representative of Pow-
ers at, 266 ff.
Washington, George. and the use of
diplomatic agents, 48; recognition ac-
cording France, 1793, by, 41; and

neutrality, 50; and the creation of
the Department of State, 1789, 59;
appointment of first representatives
abroad by, 165 ff.
Webster-Ashburton Treaty, 325
Webster, Daniel Secretary of State,
172; on passports, 407-408
Welfare cases, 380-382; in Paris, 460
Welles, Sumner: Assistant Secretary
of State, 86; Ambassador to Cuba,
87; Chief of Division of Latin Amer-
ican Affairs, 99
Wells, Vice-Consul Milton. protects
American from swindle, 382; out-
lines procedure for dead bodies, 389
Wharton, Francis: cited, 287
Wheaton, Henry: cited, 198, 218, 287;
diplomatic career of, 323
Whereabouts cases, 383-385
White, Andrew D . Ambassador to
Germany, 228, 235, 337; dispute of,
with Bismarck over arrest of nat-
uralized American, 251; cited, 273;
on wearing of court costume, 280;
Minister to Russia, 322 ff.
White, Francis: Assistant Secretary
of State, 86; Chief, Division of Latin
American Affairs, 99; Minister to
Czechoslovakia, 157; resignation of,
325
White, Henry: serves in semi-official
capacity in London, 216; at Paris
Peace Conference, 217; Ambassador
to Italy, 291; resignation of, re-
quested by President Taft, 326 ff.;
Minister to France, 449
Whitehouse, Sheldon: Chief of Divi-
sion of Near Eastern Affairs, 96
Whitlock, Brand. Minister to Belgium,
183; remains at post during German
invasion, 334 ff.
Wicquefort, A de: cited, 212, 285
Williams, Consul General: protests
treatment of Americans by Spain in
Havana, 375
Williams, E. T.: Chief of Division of
Far Eastern Affairs, 89
Williams, Consul Herbert O.: on trade
inquiries, 356
Willis, Frances: foreign service officer,
214
Wilson, Edwin C.: Chief of Division

- of Latin-American Affairs, 98 ff ; Chief Clerk, 116
- Wilson, Henry Lane : Minister to Belgium, 216; description of his reception as Minister to Chile, 235; code employed by, during Spanish American War, 246, cited, 247; resignation of, as Ambassador to Mexico, 325 ff ; remained at post during Mexican revolution, 335
- Wilson, Hugh R. : American Minister to Switzerland, 94; member, Foreign Service Personnel Board, 189, minister to Switzerland, 190
- Wilson, Huntington : reorganization of State Department by, 65 ff.; Assistant Secretary of State, 89
- Wilson, Thomas M. : Chief of Division of Foreign Service Personnel, 152
- Wilson, Woodrow : his conflict with Henry Cabot Lodge, 42; and the Monroe Doctrine, 43; his conflict with George Harvey, 45, and the Paris Peace Conference, 48, 217; and the Treaty of Versailles, 53, his conduct of foreign affairs, 76, 80, maintains consular service on career basis, 181; requires visas on passports, 416; quoted, 464-465
- Wisby, Maritime Law of, 29
- Witness : consul may serve as, 443-444
- Wives : accompanying ambassadors to post, 11, position, obligations, and duties of, 273 ff.
- Women : instances of, in diplomacy, 212 ff.; in American Foreign Service, 214
- World Court : United States Senate reservations to, 55; immunity of officials of, 313
- World Trade Directory : reports from London for, 355
- World War : care of foreign legations by. American diplomats during, 269 ff., violation of neutral diplomatic rights during, 304 ff.
- Wrecks : consular jurisdiction over, 364
- Wright, J. Butler : Chief of Division of Latin American Affairs, 99, member, Foreign Service Personnel Board, 189; Minister to Hungary, 190
- Wynne, Cyril : Chief of Division of Research and Publications, 136

X

- Xerxes : respects diplomatic immunity, 4

Y

- Yardley, Major H. O. : cited, 246
- Yost, Charles W. : Assistant Chief, Office of Arms and Munitions Control, 161
- Young, Arthur N. : Economic Adviser, 109
- Young, Evan E. : Chief of Division of Near Eastern Affairs, 96; Chief of Division of Eastern European Affairs, 102
- Young, J. R. : Minister to China, 176
- Yrujo, Marquis : Spanish envoy to United States, dismissed by American government, 331

Z

- Zouche : on diplomatic immunity, 11, 286; on distinction between diplomatic personnel and servants, 12
- Zurich : invoices certified in, 361